

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA  
SITTING IN ITS OCTOBER TERM, A. D. 2024

BEFORE HER HONOR: SIE-A-NYENE G. YUOH .....CHIEF JUSTICE  
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE  
BEFORE HIS HONOR: YUSSIF D. KABA.....ASSOCIATE JUSTICE  
BEFORE HIS HONOR: YAMIE QUIQUI GBEISAY, SR .....ASSOCIATE JUSTICE  
BEFORE HER HONOR: CEATNEH D. CLINTON JOHNSON...ASSOCIATE JUSTICE

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Christian Kocik of the City of Monrovia, Montserrado )  
County, Republic of Liberia..... Movant )  
Versus ) Motion to Dismiss Appeal  
)

The Management of Kanu Equipment by and thru its )  
Authorized Officer, Wayne Frattarolli of the City of )  
Monrovia, Liberia.....Respondents )

GROWING OUT OF THE CASE: )

The Management of Kanu Equipment by and thru its )  
Authorized Officer, Wayne Frattarolli of the City of )  
Monrovia, Liberia.....Appellant )  
Versus ) Appeal  
)

Christian Kocik of the City of Monrovia, Montserrado )  
County, Republic of Liberia..... Appellee )

GROWING OUT OF THE CASE: )

The Management of Kanu Equipment by and thru its )  
Authorized Officer, Wayne Frattarolli of the City of )  
Monrovia, Liberia.....Appellant )  
Versus ) Petition for Judicial Review  
)

Christian Kocik of the City of Monrovia, Montserrado )  
County, Republic of Liberia..... Appellee )  
)

GROWING OUT OF THE CASE: )

Christian Kocik of the City of Monrovia, Montserrado )  
County, Republic of Liberia.....Complainant )  
Versus ) Unfair Labor Practices  
)

The Management of Kanu Equipment by and thru its )  
Authorized Officer, Wayne Frattarolli of the City of )  
Monrovia, Liberia.....Defendant )

Heard: October 22, 2024

Decided: December 19, 2024

MADAM CHIEF JUSTICE YUOH DELIVERED THE OPINION OF THE COURT

This case is before us on a motion to dismiss an appeal filed by Christian Knock, the movant herein, against the Management of Kanu Equipment by and thru its Authorized Officer, Wayne Frattarolli, the respondent herein.

On November 22, 2023, following the final ruling of the trial judge in the petition for judicial review, the respondent noted exceptions to this final ruling by the trial judge and announced an appeal to the Full Bench of the Supreme Court.

Subsequently, the respondent filed its approved bill of exceptions on December 19, 2022, and thereafter filed an appeal bond and on February 16, 2023, filed its notice of completion of appeal with the trial court.

On October 5, 2024, the movant filed before this Court, a four (4) count motion to dismiss the respondent's appeal, contending that although the respondent complied with the first three (3) mandatory steps under Section 51.4 of the appeal statute for the perfecting of its appeal, however, neglected to serve and file its notice of completion of appeal within the sixty (60) day timeframe provided by law, thereby constituting a ground for the dismissal of the respondent's appeal.

On October 21, 2024, the respondents filed its resistance to the motion to dismiss contending that, contrary to the allegations made by the movant, its notice of completion of appeal was filed within the timeframe as per the law and placed in the hands of the Sheriff on the selfsame day after paying court costs; and that the respondent cannot be held for the failure of the Sheriff to serve its notice of completion of appeal on the movant.

Having stated the basic contentions of the parties, this Court says that the lone issue dispositive of this matter is whether the respondent complied with the appeal statute for the service and filing of the notice of completion of appeal?

The Civil Procedure Law Revised Code: 1: 51.4 provides the steps necessary for the completion of an appeal:

“The following acts shall be necessary for the completion of an appeal:

- (a) Announcement of the taking of the appeal;
- (b) Filing of the bill of exceptions;
- (c) Filing of an appeal bond;
- (d) Service and filing of notice of completion of appeal

Failure to comply with any of these requirements within the time allotted by statute shall be ground for the dismissal of the appeal.”

Additionally, the Civil Procedure Law Revised Code: 1: 51.9 provides as follows, to wit:

“After the filing of the bill of exceptions and the filing of the appeal bond as required by sections 51.7 and 51.8, the clerk of court on application of the appellant shall issue a notice of completion of appeal a copy of which shall be served **by the appellant on the appellee [Our Emphasis]**. The original of such notice shall be filed in the office of the clerk of the trial court.”

Firstly, the record is void as to any evidence proffered by the respondent to the effect that its notice of complete of appeal filed with the National Labor Court, Montserrado County on February 16, 2023, was indeed placed in the hands of the Sheriff for service on the movant. To substantiate this allegation, the respondent should have at least obtained a Clerk’s Certificate from the National Labor Court, Montserrado County or other evidence like an affidavit in support of its allegation. The Supreme Court has held in a plethora of cases that “mere allegations do not constitute proof as it is only evidence which enables the court, tribunal or administrative forum to pronounce with certainty the matter in dispute. *Knuckles v. TRADECO*, 40 LLR 511, 514 (2001); *V.H. Timber v. Naca Logging Company et al*, 42 LLR 527, 542 (2005); *Wamah Jones Kuteh v. NEC*, Supreme Court Opinion, October Term, 2023. Hence, we will not belabor this issue.

Moreover, this Court says that the issue regarding the non-service of the notice of completion of appeal on the adversary party, as was done by the respondent in the present case, has been addressed in several of its Opinions. In the case, *Snetter-Carey v. John*, Supreme Court Opinion, October Term A.D. 2013, the Supreme Court held that “We have observed that our courts below and some counsels of appellants insist on adhering to the previous method of service, having the sheriff serve the notice of completion of appeal and make returns thereto. They are deliberately or negligently failing to follow the trend and development in the law as to service and filing of notice of completion of appeal as propagated by our revised statute, and annunciated in several Supreme Court Opinions: *Pente v. Tulay*, 40 LLR 207, 209 (2000); *Kashouh v. Bernard*, Supreme Court Opinion, March Term A.D. 2008; *Harris v. Cavalla River Corporation*, Supreme Court Opinion, October Term A.D. 2011. The Civil Procedure Code Revised (1973) set out to settle this dispute about the final step in the appeal process, placing the *onus* on the appellant to serve and file the notice of completion of appeal with the trial court. The service in the revised code requires the notice of completion of appeal to be served by the appellant himself and the original copy of said Notice, evidencing service filed with the clerk of court.”

Similarly, in the case *Kashouh v. Bernard*, Supreme Court Opinion, March Term A.D. 2008, the Supreme Court held that “Since our statute requires a notice of completion of appeal to be served by the appellant on the appellee, then only the appellant or his agent shall serve the notice of completion of appeal and not the sheriff. To have the sheriff serve the notice of completion would defeat the intent of the statute and continue to raise the issue of who is to blame for lack of service. Service by the sheriff of the court is not in conformity with our present statute and therefore we agree with the ruling in the case *Pentee v. Tulay*, 40 LLR 207, 209 (2000) and emphasize that under our present statute the Sheriff of the court is not clothed with the authority to serve notice of completion of appeal, only the appellant who will file the original with the appellee’s signature thereon with the court.”

We affirm the holdings in the cases cited hereinabove and hold that in keeping with these precedents, the respondent’s failure to serve and file its notice of completion of appeal on the movant’s counsel is a ground for the dismissal of the appeal.

Hence, the respondent’s counsel, Counsellor Lawrence Konmla Bropleh, for the negligent handling of his client’s case, is hereby suspended from the practice of law directly and indirectly within the bailiwick of the Republic of Liberia for the period of two (2) months and during which time he shall attend training at the Judicial Institute in our Civil Procedure Law and submit a certificate to the Clerk of the Supreme Court as proof of completion of the prescribed training.

WHEREFORE, AND IN VIEW OF THE FOREGOING, the motion to dismiss the respondent’s appeal is granted and the appeal is hereby dismissed as a matter of law. The Clerk of this Court is ordered to send a Mandate to the court below commanding the judge presiding therein to resume jurisdiction over this case and give effect to this Judgment. The Clerk is further ordered to send a Mandate to all courts of the Republic informing them of this decision. Costs are ruled against the respondent. AND IT IS HEREBY SO ORDERED.

*Motion granted*

*When this case was called for hearing, the movant was represented by Counsellor Jonathan T. Massaquoi of the International Law Group, LLC. The respondent was represented by Counsellor Lawrence Konmla Bropleh of the Bropleh & Associates Law Firm.*