

**IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC
OF LIBERIA, SITTING IN ITS OCTOBER TERM, A.D. 2017.**

BEFORE HIS HONOR: FRANCIS S. KORKPOR, SR.....CHIEF JUSTICE
BEFORE HIS HONOR: KABINEH M. JA'NEHASSOCIATE JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: PHILIP A.Z. BANKS, III.....ASSOCIATE JUSTICE
BEFORE HER HONOR: SIE-A-NYENE G. YUOH.....ASSOCIATE JUSTICE

Alexander O. Marshall of the City)
of Monrovia Liberia.....Movant)

Versus)

) MOTION TO DISMISS APPEAL

The Management of the Lonestar Cell)
MTN of the City of Monrovia, Liberia)
.....Respondent)

Growing Out of the Case:)

The Management of the Lonestar Cell)
MTN of the City of Monrovia, Liberia)
.....Appellant)

Versus)

) APPEAL

Alexander O. Marshall of the City)
of Monrovia and His Hon. Charles)
M. Tuazama, Hearing Officer, Ministry)
Of Labour.....Appellee)

Growing Out of the Case:)

The Management of the Lonestar Cell)
MTN of the City of Monrovia, Liberia)
.....Petitioner)

Versus)

) MOTION TO DISMISS

Alexander O. Marshall of the City)
of Monrovia and His Hon. Charles)
M. Tuazama, Hearing Officer, Ministry)
Of Labour.....Appellee)

Growing Out of the Case:)

Alexander O. Marshall of the City)
of Monrovia Liberia.....Movant)

Versus)

) PETITION FOR JUDICIAL REVIEW

The Management of the Lonestar Cell)
MTN of the City of Monrovia, Liberia)
.....Respondent)

HEARD: October 24, 2017

DECIDED: February 9, 2018

MADAME JUSTICE YUOH DELIVERED THE OPINION OF THE COURT

This case is before us on a motion to dismiss an appeal filed by Alexander O. Marshall, the movant/appellee herein against the Management of the Lonestar Cell MTN, the respondent/appellant herein.

The reasons advanced by the movant/appellee in his September 19, 2017 motion to dismiss the respondent/appellant's appeal before the Supreme Court are twofold. Firstly, that the respondent/appellant neglected to file its petition for judicial review within the 30 days statutory period thus divesting the National Labour Court and the Supreme Court, by extension, from delving into the merits of the appeal; secondly, the respondent/appellant's appeal bond was defective in that there was no evidence indicating the liquidity of its surety; in other words, the respondent/appellant failed to prove that its surety met the required standards for insurance companies serving as sureties as outlined in the case *Mentor Initiative v. Fardon*, Supreme Court Opinion, October Term, A.D. 2013.

A review of the records shows that Her Honor Comfort S. Natt, Judge of the National Labor Court, Montserrado County, Republic of Liberia, granted the movant/appellee's Motion to Dismiss and deny the Petition for Judicial Review filed by the respondent/appellant, premising her ruling on said respondent/appellant's failure to file its petition for judicial review within the statutory period prescribed by law, that is, thirty (30) days after receipt of the Ruling of the Hearing Officer of the Ministry of Labor which awarded the movant/appellee the amount of US\$61,500.00 (Sixty One Thousand Five Hundred United States Dollars), and to which ruling the respondent/appellant excepted and announced an appeal to the Supreme Court.

On October 24, 2017, the Supreme Court entertained arguments on the motion to dismiss, and determined that the lone issue for the disposition of the motion is whether or not the respondent/appellant's appeal is dismissible as a matter of law.

The records reveal that the Hearing Officer of the Ministry of Labor rendered his final ruling on October 13, 2016, and that same was delivered to the parties on the same date of October 13, 2016, but the respondent/appellant filed its petition for judicial review before the National Labor Court, on November 14, 2016, thirty-two (32) days thereafter.

The statute on the time for filing a petition for judicial review from a ruling of a hearing officer at the Ministry of Labour to the National Labour Court provides as follow:

"...any party dissatisfied with the decision of a Hearing Officer may take an appeal by filing a Petition for Judicial Review with the Labor Court within Thirty (30) days after receipt of the Hearing Officer's decision. Copies of the petition shall be served promptly on the Hearing Officer who rendered the decision, and all parties on record. The decision of the Hearing Officer shall become final and conclusive upon the expiration of the Thirty (30) days after copies of his ruling have been received by the parties to a case." The Labor Law Rev Code, 18: 23.3(7); *Davis and Sayeh v. Liberia Telecommunication Authority*, Supreme Court Opinion, October Term A.D. 2016."

With regards to the issue of the respondent/appellant's bond being defective, the argument by the respondent/appellant is that by attaching to the bond copies of the surety's articles of incorporation, certificate of business registration, and a tax clearance certificate, met the standard enounced in section 63.2 of the Civil Procedure Law and the

Opinions of the Supreme Court. The Supreme Court in giving interpretation to the provision of the Civil Procedure Law has espoused as follow:

“An insurance company authorized to execute surety bonds within the Republic of Liberia does not mean a mere exhibition of the articles of incorporation of the insurance company containing a clause that it can serve as surety, or an exhibition of a certificate showing that it is authorized to do business in Liberia, or a statement from the Ministry of Finance indicating that the company has paid its taxes, for none of those points to the liquidity of the insurance company as would satisfy the purpose of an appeal or other bonds, which are intended to hold the successful or opposing parties harmless from injury, to make payment of the cost of court, and to satisfy the judgment of the court...; the purposes stated both in the statute and in a litany of cases decided by this Court presuppose and imply that the insurance company is in good standing and has the liquidity or other means to satisfy the judgment and other costs associated with the case in which it is serving as surety. The standards contemplated by the Statute are:

1. The exhibition or attachment to the bond of the articles of incorporation of the insurance company as evidence that the company does exist;
2. Registration certificate of the insurance company with the appropriate government ministry or agency indicating that it is authorized to do business in Liberia and that it is in good standing;
3. Clearance from the Ministry of Finance evincing that all taxes due as at the time of the execution of the bond have been fully paid; and
4. Evidence, such as certificate or other legal instrument from an appropriate legal authority such as the Central Bank or other insurance authority or similar government entity having regulatory responsibilities for insurance companies, that the insurance company possesses assets within the Republic of Liberia, sufficient to cover the obligation undertaken by the insurance company in the bond, exclusive of other bonds to which it is already serving as surety, commensurate with the amount stated in the bond” (Emphasis Ours). *Mentor Initiative v. Fardon*, Supreme Court Opinion, October Term, A.D. 2013.

This Court therefore rejects the respondent’s argument that by attaching to its bond species of documents mentioned earlier met the requirement of the law. The Supreme Court has cautioned that the appeal statute should be strictly complied with to avoid the risk of an appeal being dismissed since the law is clear as to when and how the appeal process should be conducted in order that a case can be properly venued before the Supreme Court for appellate review. *Blamo et. al. v. The Management of Catholic Relief Services* Supreme Court Opinion October Term 2006; *Republic v. Nbolonda*, Supreme Court Opinion, March Term A.D. 2014; *Pioneer Construction v. Judge Morgan et al.*, Supreme Court Opinion, March Term A.D. 2014.

In view of the aforesaid, we hold that the appeal bond, not having met the standards articulated herein above, and the respondent/appellant having neglected to avail itself of the time allowed for the filing of a petition for judicial review from the ruling of the hearing officer of the Ministry of Labor to the National Labor Court, render its appeal dismissible as a matter of law and the final ruling of the Hearing Officer of the Ministry of Labor conclusive.

WHEREFORE and in view of the facts and the laws controlling, the motion to dismiss the appeal is granted and the appeal is hereby dismissed. The Clerk of this Court is ordered to send a Mandate to the court below to resume jurisdiction over this case and

enforce this judgment. Costs are ruled against the respondent/appellant. AND IT IS
HEREBY SO ORDERED.