

IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA,
SITTING IN ITS MARCH TERM, A. D. 2026.

BEFORE HIS HONOR : YAMIE QUIQUI GBEISAY, SR..... CHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE ASSOCIATE JUSTICE
BEFORE HIS HONOR : YUSSIF D. KABA ASSOCIATE JUSTICE
BEFORE HER HONOR: CEATNEH D. CLINTON-JOHNSON.....ASSOCIATE JUSTICE
BEFORE HIS HONOR : BOAKAI N. KANNEHASSOCIATE JUSTICE

Mr. Philip J. Beah, Former Director for)
Environmental and Public Safety of the)
Paynesville City Corporation (PCC), of the)
City of Paynesville, Montserrado, County,)
Republic Liberia Movant)

Versus)

The Management of the Paynesville City)
Corporation (PCC) by and thru its City)
Mayor and all those acting under her)
authority of the City of Paynesville,)
Montserrado County, Republic of Liberia)
..... Respondent)

Motion to Dismiss Appeal

GROWING OUT OF THE CASE:

The Management of the Paynesville City)
Corporation (PCC) by and thru its City)
Mayor and all those acting under her)
authority of the City of Paynesville,)
Montserrado County, Republic of Liberia)
..... Appellant)

Versus)

Mr. Philip J. Beah, Former Director for)
Environmental and Public Safety of the)
Paynesville City Corporation (PCC), of the)
City of Paynesville, Montserrado, County,)
Republic Liberia Appeal)

Appeal

GROWING OUT OF THE CASE

The Management of the Paynesville City)
Corporation (PCC) by and thru its City)
Mayor and all those acting under her)
authority of the City of Paynesville,)
Montserrado County, Republic of Liberia)
..... Petitioner)

Versus)

Mr. Philip J. Beah, Former Director for)
Environmental and Public Safety of the)
Paynesville City Corporation (PCC), of the)
City of Paynesville, Montserrado, County,)
Republic Liberia Respondent)

Petition for Judicial Review

MR. JUSTICE KABA DELIVERED THE OPINION OF THE COURT

The movant/appellee, Mr. Philip J. Beah, former Director for Environmental and Public Safety of the Paynesville City Corporation (PCC), filed an eight counts motion to dismiss the appeal announced by the respondent, the Management of the Paynesville City Corporation, on the grounds that the respondent failed to comply with the requirements of 1LCLR 1: 51.4(d), 51.9, and 51.11. In substance, the movant averred in his motion that he filed a complaint with the Ministry of Labor alleging unfair labor practices and wrongful dismissal against the respondent and subsequently obtained a judgment in his favor; that the respondent thereafter filed a Petition for Judicial Review before the National Labor Court, which was heard and resulted in the affirmation of the administrative determination of the Ministry of Labor's hearing officer ordering that the movant be reinstated and paid his just compensation; that the respondent entered an exception to and announced an appeal from this final ruling, filed its bill of exceptions and appeal bond, but failed to serve and file a notice of completion of appeal and to cause the records to be transcribed and transmitted to the appellate court within the statutory period of ninety (90) days. In support of the motion, the movant annexed Clerk's Certificates from both the National Labor Court and the Supreme Court. The motion is predicated upon the respondent's alleged violation of Sections 51.4(d), 51.9, and 51.11 of the Civil Procedure Law. The movant therefore prays that this Court orders the dismissal of the respondent's appeal and remand this matter to the trial court with instructions to proceed to enforce its final ruling.

The respondent, in its resistance, contends that, contrary to the movant's averments, it complied with the requirements of Section 51.4 by: (a) announcing the taking of the appeal; (b) filing its bill of exceptions; (c) filing an appeal bond; and (d) serving and filing a notice of completion of appeal. The respondent further asserts that, although the National Labor Court's final ruling was rendered on August 29, 2024, it received the ruling on January 13, 2025; that thereafter, it filed its bill of exceptions on January 20, 2025, and on March 11, 2025, filed and served its appeal bond and

notice of completion of appeal; that the allegation that the movant was not served is false and misleading, and that the appeal bond and notice of completion of appeal were served on George Diebolo and filed by Wready N. Smith, Clerk of the National Labor Court.

This motion calls upon us to review the certified records and determine whether the respondent complied with the relevant statutory provisions. The movant's claim that the respondent failed to serve and file its notice of completion of appeal in accordance with the provisions of the appeal statute rests on a clerk's certificate issued by the Clerk of the National Labor Court and dated March 19, 2025. The pertinent part of the certificate reads as follows:

"...a careful perusal and inspection of the records of the National Labor Court for Montserrado County, Republic of Liberia, reveals and establishes the fact that the notice of completion of appeal was signed by the clerk. Thereafter, the appellant took the said copy to the appellee for signature and neglected to file the same with the court up to and including the date of the issuance of this Clerk's Certificate..."

The respondent, on the other hand, asserts that it served and filed both the appeal bond and the notice of completion of appeal on March 11, 2025. Despite the movant's motion averring that the respondent failed to serve and file the notice of completion of appeal, and the exhibited clerk's certificate, which lends credence to those averments, the respondent failed to annex any proof that the notice of completion of appeal was filed with the trial court, even though it provided proof of the filing and service of the bill of exceptions and the appeal bond. The law in this jurisdiction is that the burden of proof rests on the party who alleges a fact, except that when the subject matter of a negative averment lies peculiarly within the knowledge of the other party, the averment is taken to be true unless disproved by that party. 1:1.25.5(1) This Court has also held in the case *Sheriff v. Pearson et al.*, 35 LLR 693 (1989), that the returns of ministerial officers are presumed correct. Similarly, in *Nebo v. Ilo et al.*, LRSC 12 (February 19, 2013), the Court opined that where assertions are made in a Clerk's Certificate

confirming the performance or non-performance of an act, and such assertions are not effectively rebutted, the certificate is deemed admitted.

In the face of the clerk's certificate procured by the movant showing that the respondent did not comply with the Civil Procedure Law Rev. Code 1.51.4(d) of the Civil Procedure Law which mandates that the notice of completion of appeal be filed with the trial court within 60 days of the announcement of the appeal, the burden shifted to the respondent to produce evidence to controvert the movant's averment, supported by the clerk's certificate, and to support its denial that it comply with the dictates of the statute. The respondent's failure to produce such evidence supports the conclusion that the movant's averment, which finds support in the records, is true and correct. In *ITP Ltd. v. Matthews*, 37 LLR 808 (1995), this Court held that a certificate from the clerk regarding the non-service or non-filing of a notice of completion of appeal will not be disturbed. Further, in *Hejazi Corp. v. Intestate Estate of Cooper*, LRSC 25 (June 29, 2010), this Court held that after the announcement of an appeal, the filing of the bill of exceptions, and the filing of the appeal bond, the clerk of the trial court, upon application, shall issue a notice of completion of appeal, which must be served on the appellee and the original thereof must be filed in the office of the clerk of the trial court.

Because the law provides that the failure to meet any of the mandatory requirements to perfect an appeal, including filing a notice of completion of the appeal, is grounds for dismissal, the movant's application for the dismissal of the respondent's appeal under the facts and circumstances revealed by the records is supported by the Civil Procedure Law 1:1.51.4. This Court has consistently held that service and filing of the notice of completion of the appeal within the statutory period are mandatory requirements, and failure to comply warrants dismissal of the appeal. 1LCLR 51.4(d); *Snetter-Carey v. John*, Supreme Court Opinion, October Term, A.D. 2013. The respondent having failed to file and serve the movant with the notice of completion of the appeal as evidenced by the Clerk's Certificate, the appeal is dismissible as a matter of law.

WHEREFORE, AND IN VIEW OF THE FOREGOING, the movant's motion to dismiss the appeal is granted, and the appeal is hereby ordered dismissed. The Clerk of this Court is hereby ordered to send a Mandate to the court below, commanding the judge presiding to resume jurisdiction and enforce the Judgment of this Opinion. Costs are ruled against the respondent. IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLOR STEPHEN J.C. KAI AND LAWRENCE TOMAH APPEARED FOR THE MOVANT. COUNSELLOR BOB B. LAYWHYEE APPEARED FOR THE RESPONDENT.