

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

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

Thomas Hill represented by and thru his)
Attorney-In-Fact, Emmanuel Johnson of)
Monrovia, Republic of Liberia)
.....Movant)

Versus

) MOTION TO DISMISS APPEAL

James Logan of the City of Monrovia,)
County of Montserrado, Republic of)
Liberia.....Respondent)

GROWING OUT OF THE CASE:

James Logan of the City of Monrovia,)
County of Montserrado, Republic of)
Liberia.....Appellant)

Versus

) APPEAL

Thomas Hill represented by and thru his)
Attorney-In-Fact, Emmanuel Johnson of)
Monrovia, Republic of Liberia)
.....Appellee)

Heard: March 19, 2026

Decided: May 20, 2026

MADAM JUSTICE CLINTON-JOHNSON DELIVERED THE OPINION OF THE COURT

This case is before us on a motion to dismiss the appeal filed by the movant, Thomas Hill represented by and thru his Attorney-in-Fact, Emmanuel Johnson, against the respondent, James Logan, which motion seeks to have this Court dismiss the appeal announced by the respondent from a judgment entered against him by the Sixth Judicial Circuit, Civil Law Court for Montserrado County, on ground that the respondent failed to complete the appeal process by failing to file a notice of completion of appeal.

The records before this Court show that the underlying action arose from an action of ejectment instituted before the Sixth Judicial Circuit, Civil Law Court for Montserrado County; that after final ruling was entered in favor of the movant by His Honor Scheaplor R. Dunbar, Assigned Circuit

Judge, in the case that the respondent herein filed a motion to intervene after final judgment had been rendered, which motion was denied on January 6, 2026 by His Honor Peter W. Gbeneweleh, Assigned Circuit Judge on ground that the motion to intervene was untimely. The trial court's denial was premised on the ground that once final judgment is entered, the rights of the parties become fixed subject only to proper appellate procedures, and no post-judgment motion can substitute for or cure non-compliance with the appeal statute; and the filing of a motion to intervene after final judgment cannot revive the case. The trial judge denied the motion relying on the case *Jammuel T. Mulbah v. Ujay Morris* Supreme Court's Opinion, March Term (2014).

The records show that it is from the ruling, denying the motion to intervene that the respondent announced an appeal, filed a bill of exceptions and an appeal bond. Thereafter, the movant obtained a clerk's certificate dated March 9, 2026 confirming that the respondent failed to file the notice of completion of appeal; that thereafter, the movant filed this motion to dismiss appeal, praying this Honorable Court to dismiss respondent's appeal.

The movant, Thomas Hill's motion to dismiss the respondent's appeal announced in the court below was filed due to the failure of the respondent to file the notice of completion of appeal with the clerk of the trial court, which appeal grows out of a motion to intervene in the main suit of an ejectment action filed by the respondent, James Logan, after the trial court has granted the summary judgment in the main suit which is the basis of this appeal.

Having reviewed in its entirety, the movant's motion and corresponding exhibits, the respondent's resistance, their respective arguments and the laws relied upon by the parties, this Court has determined that there are two issues determinative of this case. They are:

1. Whether or not the movant proved by the preponderance of the evidence that the respondent failed to file its notice of completion of appeal in accordance with the appeal statute.
2. Whether the failure to file the notice of completion of appeal within the time prescribed by statute renders the appeal incomplete and dismissible.

With respect to the first issue whether or not the movant proved by the preponderance of the evidence that the respondent failed to file its notice of completion of appeal in accordance with the appeal statute, this Court answers in the affirmative.

The appeal statute under *Civil Procedure Law Rev. Code:1.51.4* provides that "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 the appeal.

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

The *Civil Procedure Law, Rev. Code:1.51.4(d)* cited above, states that an appeal shall be dismissed due to the a party's failure to serve the adverse party with the notice of completion of appeal and also due to a party's failure to file with the clerk of the trial court the said notice of completion of appeal.

The records in this case show that after the trial court delivered its ruling denying the respondent's motion to intervene on January 6, 2026, the respondent announced an appeal, filed its bill of exceptions and appeal bond. Thereafter, the movant obtained a clerk's certificate on March 9, 2026, and said clerk's certificate states verbatim:

CLERK'S CERTIFICATE

DUE DILIGENT INSPECTION OF THE CASE FILE IN THE ABOVE CAPTIONED CAUSE OF ACTION REVEALS THAT THE MOVANT HAS FAILED AND NEGLECTED TO FILE HIS NOTICE OF COMPLETION OF APPEAL SINCE THE COURT'S RULING ON THE MOTION TO INTERVENE WHICH MOTION WAS FILED BY THE MOVANT JAMES LOGAN UP TO AND INCLUDING THE DATE OF THIS CLERK'S CERTIFICATE.

HENCE, THIS CLERK'S CERTIFICATE.

GIVEN UNDER OUR HANDS AND SEAL OF
THIS HONOURABLE COURT, THIS 9TH DAY
OF MARCH A.D. 2026
COURT'S SEAL:

ALFRED N. MORRIS
CLERK, CIVIL LAW COURT "ANNEX" FROM MONT. CO. R.L.

This clerk's certificate authenticated that the respondent failed to file its notice of completion of appeal as required by law, after which the movant filed this motion to dismiss appeal before this Court and pray for the dismissal of the respondent's appeal.

This Court says that the clerk is a custodian of the court's records, and a clerk's certificate issued by a clerk of court, if not challenged by a sworn affidavit, is deemed correct and authentic. A clerk's certificate, being an official act of a ministerial officer who is the lawful custodian of court records, constitutes prima facie and controlling evidence unless rebutted by competent proof. In *Hejazi Corp. v Intestate Estate of Cooper* [2010] LRSC 25 (29 June 2010), the Court held: "The controlling law in this jurisdiction is that the returns of ministerial officers of the courts are presumed to be correct." See also *Sheriff v. Pearson et al.*, 35 LLR 693 (1989); *Citibank N.A. v. Jos Hansen and Sachne (Liberia) Ltd.*, 36 LLR 198 (1989).

The respondent, in its resistance contends that he filed the notice of completion appeal since March 4, 2026, and attached a copy with the same clerk's signature. Such contention, without sworn verification, remains a mere allegation devoid of evidentiary value. The burden of proof rests upon the party asserting the fact.

Assuming arguendo, that respondent filed its notice of completion of appeal as he claimed, upon receipt of the movant's motion to dismiss appeal, the respondent should have gone to the same clerk and obtained a sworn affidavit to rebut movant's claim. However, the respondent failed to do so; therefore, this Court deems the clerk's certificate obtained by movant to be correct unless proven to the contrary. In *Liberia Sheng Xin De Yuan Mining Company Inc. v. John P. Saah* (March Term, A.D. 2023), the Court held: "*The Supreme Court has held that 'Affidavits are not required in motions or allegations involving issues of law; but where issues of fact are involved, affidavits are required.'* *Standard Stationery Stores v. Gompu et al.*, 20 LLR 271 (1982)."

This Court says that an attachment, unsupported by affidavit or certification, does not constitute competent evidence and cannot displace official court's records. Courts of record act upon evidence, not assertions. Therefore, the question of whether the notice of completion of appeal was filed is clearly a question of fact. It is a settled rule in this jurisdiction that issues of fact must be supported by affidavit or other competent evidence. Accordingly, the respondent's failure to provide affidavit to support its evidence is fatal to his contention.

The records certified in this case show that the trial judge ruled in the motion to intervene filed by the respondent on January 6, 2026 after the trial court has ended the ejectment action by granting the movant herein motion for summary judgment. The records further show that the respondent served and filed the notice of completion of appeal on the movant on March 4, 2026. The movant admits that he was served on March 4, 2026 but contends that the said notice was not filed within the statutory time, which compels movant to obtain of a clerk certificate. Computing the total number of days following the date of the announcement of appeal to the serving, it sums up to be 57 days. We observe from the records that the movant requested a clerk certificate on March 9, 2026, which certificate, quoted above clearly indicates that up to March 9, 2026, the respondent had not filed the notice of completion of appeal.

We shall now proceed to address the next issue, whether the failure to file and serve the notice of completion of appeal within the time prescribed by statute renders the appeal incomplete and dismissible. This Court answers in the affirmative.

Chapter 51, Section 51.4 of the *Civil Procedure Law* provides: "*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*

the appeal. Failure to comply with any of these requirements within the time allowed by statute shall be ground for dismissal of the appeal." The language of the statute is clear, mandatory, and unequivocal. Each of the four acts enumerated by the statute constitutes an indispensable statutory requirement for the perfection of an appeal. Failure to comply with any one of these statutory steps renders the appeal incomplete and dismissible as a matter of law.

The Civil Procedure Law, Rev. Code:1.51.9 provides: "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 the trial court on application shall issue a notice of completion of the appeal, a copy of which shall be served by the appellant on the appellee. The original of such notice shall be filed in the office of the clerk of the trial court." Under the controlling statute and settled practice of this Honorable Court, the notice of completion of appeal must be served and filed within sixty (60) days after rendition of the judgment appealed from. Failure to serve and then file the said notice of completion of appeal within the statutory period renders the appeal incomplete and subject to dismissal.

In the instant case, the clerk's certificate establishes that the respondent failed to file the notice of completion of appeal as provided by law. Where the notice of completion of appeal is not filed, the appeal is never completed, and jurisdiction is vested in this Court. The Supreme Court opined in the case: ACTIVA International Insurance, v His Honor James E. Jones, and Hans Armstrong et al, Supreme Court Opinion, October Term, 2025, that in the event the trial judge receives and signs a bill of exceptions approving it within the period allowed by law, the trial judge's authority to execute the said final ruling is removed unless and until pursuant to a Mandate of the Supreme Court. *Housseini v Kaydea*, Supreme Court Opinion, March Term, 2012.

It is our holding, that the respondent having served the notice of completion of appeal on the movant but failed to file said notice of completion of appeal with the trial court, the appeal is dismissible;

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

Motion granted.

When the case was called for hearing, Counsellor Jonathan T. Massaquoi appeared for the movant. Counsellor Bob B. Laywhea appeared for the respondent.