

IN THE HONORABLE 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: CEANEH D. CLINTON-JOHNSON.....ASSOCIATE JUSTICE
BEFORE HIS HONOR : BOAKAI N. KANNEH.....ASSOCIATE JUSTICE

Mr. Abraham Kromah by and thru his Attorney-in-Fact)
Mr. Francis Morgan of the City of Paynesville,)
Republic of Liberia.....Appellant)

Versus)

APPEAL)

His Honor George W. Smith, Assigned Circuit Judge)
Sixth Judicial Circuit, Civil Law Court,)
Liberia.....1st Appellee)

And)

The Intestate Estate of William Birch and Rebecca V.)
Birch by and thru its Administrator/Administratrix of)
the city of Monrovia, Liberia2nd Appellee)

GROWING OUT OF THE CASE:)

Mr. Abraham Kromah by and thru his Attorney-in-Fact)
Mr. Francis Morgan of the City of Paynesville,)
Republic of Liberia.....Petitioner)

Versus)

PETITION FOR A WRIT OF
CERTIORARI)

The Intestate Estate of William Birch and Rebecca V.)
Birch by and thru its Administrator/Administratrix of)
the city of Monrovia, Liberia.....Respondent)

Heard: March 24, 2026

Decided: May 21, 2026

MR. JUSTICE KANNEH DELIVERED THE OPINION OF THE COURT

This appeal grows out of the ruling of our distinguished colleague, Ceaneh D. Clinton-Johnson, then Justice presiding in Chambers of this Court during the March Term, A. D. 2025. Our review of the facts revealed by the records shows that our colleague's ruling captures the substantive facts and rationale for granting the appellee's, the Intestate Estate of William Birch and Rebecca V. Birch by and thru its Administrator/Administratrix, petition for a writ of certiorari.

We quote the said ruling verbatim as follows:

"This is a petition for the issuance of a writ of certiorari filed on June 2, 2025, before the Chambers Justice, Her Honor Ceaneh D. Clinton-Johnson, by the petitioner, Abraham Kromah, Jr., by and thru his Attorney-in-Fact, Francis Morgan, against the ruling of His Honor George W. Smith, Assigned Judge, Sixth Judicial Circuit, Civil

Law Court, Montserrado County, granting a motion for summary judgment in favor of the 2nd respondent, the Intestate Estate of William Birch and Rebecca V. Birch, and rescinding his decision joining the petitioner as a party defendant in a petition for summary proceedings to recover possession of real property.

The petitioner alleged primarily that on October 17, 2025, he filed a motion to join through his attorney-in-fact, Francis Morgan, as a party defendant in an action of summary proceedings to recover possession of real property filed by the 2nd respondent, the Intestate Estate of William Birch and Rebecca V. Birch, by and thru its administrators and administratrix, against defendants Marcus Gaye, Cecelia Weah, et al; that the motion to join was granted, the 2nd respondent not having objected, and the petitioner filed his answer accordingly.

The petitioner also averred that on March 21, 2025, the 2nd respondent filed a motion for summary judgment against those defendants it had earlier filed the summary proceedings to recover possession of real property to which he had been joined as a party defendant; that having joined as a party defendant and proffered his title instrument, the matter was no more in the realm of summary proceedings to recover possession of real property but an ejectment action; that the trial judge refused and denied him copy of his ruling having ruled granting the motion for summary judgment. For the reasons stated herein, the petitioner is praying this Court for the issuance of a writ of certiorari against the trial judge.

On July 24, 2025, the 2nd respondent filed its returns, upon the issuance of the alternative writ of certiorari, a conference having been held with the Chambers Justice on June 11, 2025. The 2nd respondent contended that its action for summary proceedings to recover possession of real property was filed against its tenants, not the petitioner, and that the co-defendants did not file answer, neither did they challenge the assertion that they are respondent's tenants; that the petitioner did not state the relationship between him and the other co-defendants; that the co-defendants having not challenged or filed answer to its complaint, it filed the motion for summary judgment, and that thereupon, the trial judge granted same and rescinded his decision to join the petitioner.

This Court is of the view that the petition and the returns thereto present one issue for the determination of this case, and it is: did the trial judge err rescinding his decision and thereby granting the motion for summary judgment?

The petitioner has contended in his petition for the writ of certiorari that in so far that the trial judge granted his motion to join as a party defendant in the action of summary proceedings to recover possession of real property filed by the 2nd respondent against the other co-defendants, and accordingly filed its answer, attaching thereto his title instrument, title has become an issue; hence, the matter was no more within the ambit of summary proceedings, but ejectment proceedings. Therefore, the trial judge erred to have rescinded his decision to join him as a party defendant, and granted the 2nd respondent's motion for summary judgment against the other co-defendants.

This assertion by the petitioner is supported by a plethora of Opinions of the Supreme Court of Liberia in which the Court held that "whenever an action of summary proceedings to recover possession of real property is instituted, and the question of title is put in issue, the case is taken from the category of summary proceedings to that of an action of ejectment which, in most cases, contains both issues of law and fact triable by a jury under the direction of the court". *Konneh v. Badio et al*, 37 LLR 576 (1994); *Wulah v. Wright and the Church of the Living God*, 37 LLR 27 (1993).

However, the present case presents a different situation wherein the 2nd respondent filed a motion for summary judgment against the other co-defendants, they having not filed an answer to the 2nd respondent's action of summary proceedings to recover possession of real property neither challenged that they are tenants of the 2nd respondent, and not the petitioner. It is the law that "the court shall grant summary judgment if it is satisfied that there is no genuine issue as to any material fact and that the party in whose favor judgment is granted is entitled to it as a matter of law". Civil Procedure Law, Rev. Code 1:11.3.3.

The records having shown that the other co-defendants against whom the summary proceedings was filed, and they having neglected and failed to file answer to counter any of the averments contained in the 2nd respondent's complaint, obviously, there was no genuine issue of material fact but to grant the summary judgment against the co-defendants, not the petitioner, and that the petitioner will not be bound by the said ruling; the trial judge having rescinded his decision to join the petitioner and granted the motion for summary judgment. The Supreme Court has consistently held that "judgment of a trial court cannot bind those who were not party to a suit. *Eitner v. Sawyers*, 26 LLR 247 (1977); *Boye v. Nelson*, 27 LLR 174, 176 (1978); *Kanneh et al v. Kanneh et al*, 25 LLR 300 (1976). It is also the law that "the right of no one

shall be concluded by a judgment rendered in a suit to which he is not a party, and a party cannot be bound by a judgment without being allowed his day in court". Abraham Wales, et al v. The Intestate Estate of Arthur and Reuben Hart, Supreme Court Opinion, March Term, A.D. 2025; LIDC v. Thorpe, 31 LLR 14 (1984).

This Court says that the trial judge rescinding his decision to grant the petitioner's motion to join in the action of summary proceedings to recover possession of real property filed by the 2nd respondent, thus granting the motion for summary judgment against the other co-defendants who had failed to file answer to the said summary proceedings, legally exempt the petitioner from the enforcement thereof consistent with the laws cited, and the petitioner, convinced that his title is strong enough to that of the 2nd respondent, has remedy in ejectment. The Supreme Court has held that "certiorari is a special proceeding to review and correct the lower court's interlocutory ruling or intermediate order; that the writ of certiorari will not be granted where adequate relief can be obtained through regular appeal". Vargas v. Reeves, 39 LLR 368, 373 (1998). Having reviewed the records in the instant case and found that the trial judge's ruling was final, granting the summary judgment; same not being interlocutory, certiorari will not be issued."

From the reading of the Chambers Justice's Ruling, this Court observes that our colleague based her decision to deny the peremptory writ of certiorari prayed for by the appellant on the fact that the trial judge's decision to grant the appellee's motion for summary judgment was final and not interlocutory; and that the trial judge having rescinded his ruling granting the motion to join the present appellant, no judgment emanating therefrom action was applicable (binding) to the appellant.

We agree with our colleague that the decision of the trial judge to grant the appellee's motion for summary judgment brought finality to the matter as to the original defendants in the action of summary proceedings to recover possession of real property. Our decision is in consonance with the law which states that the granting of a summary judgment by the trial court, however irregular or erroneous the proceedings have been conducted, brings to finality the merits of the case. *Mutual Benefit v. Bea Mountain*, Supreme Court Opinion, March Term 2023.

It is also the law that "An interlocutory judgment is one which lacks finality; it is a judgment which speaks between, that is, it does not speak the last word which the

court may be required to speak in the case; a judgment rendered in the middle of a cause upon some plea, proceeding, or default, which is only intermediate and does not finally determine or complete the suit. An interlocutory judgment is made before final judgment. On the other hand, a judgment is said to be a final judgment which determines and disposes of the whole merits of the cause before the court by declaring that the plaintiff is or is not entitled to recovery by the remedy chosen, or completely and finally disposes of a branch of a cause which is separate and distinct from parts thereof. A final judgment determines a question in such a manner as to terminate or end the matter so completely as to preclude all future inquiries concerning the truth itself. For the purpose of appeal, a final judgment is one which terminates the litigation between the parties on the merits and leaves nothing to be done but to enforce by execution what has been determined.” *The Intestate Estate of John P. Harmon v. Goldy William Saydee*, Supreme Court Opinion, March Term 2025.

We are also in agreement with our colleague to the effect that the trial judge having rescinded his decision granting the appellant’s motion to join the instant action, the ruling emanating from the said action is inapplicable to the appellant. As our colleague rightly put it, “no judgment can conclude a person not a party to the suit, nor can it affect the property of such a person unless he has been brought under the jurisdiction of the court.” *International Bank Liberia Limited v. Ocean Eleven Fitness Club*, Supreme Court Opinion, March Term 2023; *Executive Parking Services Incorporated v. His Honor Scheaplor R. Dunbar*, Supreme Court Opinion, October Term 2025; *Papa Ansu and Ma v. Abubakar Jalloh*, Supreme Court Opinion, March Term 2021. Hence, we fail to see the basis of the appellant filing the petition for certiorari before the Justice in Chambers noting that the judgment originating from the said action of summary proceedings to recover possession of real property was not binding on the appellant and especially considering the fact that the appellant had appropriate legal redress in ejectment if he felt that he was the legitimate owner of the property, subject of the summary proceedings action or a portion thereof.

Certiorari, says the law, is a special proceeding to review and correct decisions of officials, boards, or agencies acting in a judicial capacity, or to review an intermediate order or interlocutory judgment of a court. Civil Procedure Law, Rev. Code 1:16.21(1); *Jawhary v. Greaves*, 40 LLR 489, 491 (2001). It also concerns itself only with records; it is to review records and correct prejudicial errors of a trial court during the pendency of a case. *Marthaline Cole v. Daniel S. Senneh*, Supreme

Court Opinion, October Term 2025. Hence, the ruling of the trial judge having brought finality to the action of summary proceedings to recover possession of real property, the petition for certiorari will not lie and we so hold.

Before concluding this Opinion, we deem it necessary to state the distinction between summary judgment and default judgment.

The statute provides that the "Court shall grant summary judgement if it is satisfied that there is no genuine issue as to any material fact and that the party in whose favour judgment is rendered is entitled to it as a matter of law. Section 11.3 (3), 1LCL Rev., Civil Procedure Law.

Summary judgment is a means for the prompt disposition of a controversy without a formal trial. Summary judgment promotes the search for undisputed material facts that can be applied in the judicial decision-making process. The purpose of summary judgment is to eliminate trial in cases in which it is unnecessary and would only cause delay and expense. It is a useful device for unmasking frivolous claims and defences and putting an end to meritless litigation. 73 AM JUR 2d, Section 1, Summary Judgment.

To the contrary, it is "the failure of a party, upon service of process, to appear, file or proceed to trial, that presents a ground for a default judgment against the defaulting party. Chapter 42, Section 42.1, 1LCL Revised, Civil Procedure Law. This is the practice in the lower courts.

To put it differently, summary judgment will lie where there are no material facts in dispute while default judgment goes to the failure of a party, upon service of process, to appear, file or proceed to trial.

In the instant case, the defendants in the original action of summary proceedings to recover possession of real property having failed to file an answer to the complaint filed by the present appellee, default judgment and not summary judgment was the applicable remedy.

WHEREFORE, AND IN VIEW OF THE FOREGOING, the ruling of the Justice in Chambers, quashing the alternative writ of certiorari and denying the peremptory writ of certiorari is hereby affirmed. 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 the Judgment of this Opinion. AND IT IS HEREBY SO ORDERED.

PETITION DENIED.

When this case was called for hearing, Counsellor David M.. Kolleh, Jr. of the liberty law firm appeared for the appellant. Counsellor Jimmy Saah Bombo, Sr. of the Central Law Offices, Inc. appeared for the appellee.