NATIONAL ELECTIONS COMMISSION V AMOS SIEH SIEBO-MOTION TO DISMISS-FINAL JUDGMENT

BY ROMEO L. QUOI, JR. · SEPTEMBER 19, 2017

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IN THE HONOURABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA

SITTING IN ITS MARCH TERM, A. D. 2017.

BEFORE HIS HONOR: FRANCIS S. KORKPOR, SR.....CHIEF JUSTICE

BEFORE HIS HONOR: KABINEH M. JA'NEH …… ASSOCIATE 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

The National Elections Commission (NEC), represented)

by and through its Chairman, Cllr. Jerome G. Kokoya)

and all Officers of NEC, all of the City of Monrovia,)

Montserrado County, Republic of Liberia……..Movant)

)

VERSUS) Motion to Dismiss

) Appeal

Amos Sieh Siebo, Jr., Independent Representative)

Aspirant for the District # 1, Montserrado County,)

Republic of Liberia…….……Respondent)

)

GROWING OUT OF THE CASE:)

)

Amos Sieh Siebo, Jr., Independent Representative)

Aspirant for the District # 1, Montserrado County,)

Republic of Liberia…….……..Appellant)

)

VERSUS) Appeal

)

The Nomination Committee of National Elections Com-)

mission (NEC) of the Republic of Liberia……..Appellee)

)

GROWING OUT OF THE CASE:)

)

Amos Sieh Siebo, Jr., Independent Representative)

Aspirant for the District # 1, Montserrado County,)

Republic of Liberia……..……Complainant)

)

VERSUS)
Nomination

) Rejection

The Nomination Committee of National Elections)

Commission (NEC) of the Republic of Liberia…Appellee)

Heard: August 26, 2017 Decided: September 5, 2017

1. **JUSTICE BANKS DELIVERED THE OPINION OF THE COURT**

As part of its constitutional mandate specified in the 1986 Constitution, and pursuant to the statutory command stipulated in the Elections Law enacted by the Legislature, done on authority of and in compliance with Article 34() of the Constitution which mandated the Legislature to enact the Elections Law of Liberia for the governance and conduct of elections for public offices in Liberia, the National Elections Commission, movant/appellee herein, on July 2, 2017 commenced, as per prior notification, the nomination process for prospective candidates desirous of contesting the ensuing

October 10, 2017 Presidential and General Elections. See Lib. *Const. Art. 89 (1986)*. The statutory authority upon which the Movant/Appellee relied for commencing the process is couched in Section 2.9(g)(h)(n) of the Elections Law, which we herein quote as follows: (g)"conduct all elections for elective public offices including the chieftaincy election and all referenda and declare the results thereof; (h) formulate and enforce guidelines controlling the conduct of all elections for elective public offices which guidelines shall not be inconsistent with the provisions of the Constitution and the Elections Law; (n) screen all candidates for elective public office and accredit their candidacy, and/or reject the candidacy of anyone who is not qualified under this title and the guidelines laid down by the Commission." *Elections Law, Rev. Code 11:2.9(g)(h)(n).*

Consistent with and pursuant to the foregoing statutory empowerment, the Appellee the NEC set up a Nomination Committee comprising of three persons whose functions included an initial examination of the applications of candidates seeking elective public offices in the mentioned ensuing October 2017 Elections to determine if the applicants had met the constitutional and statutory requirements as well as the Regulations and Guidelines promulgated by the National Elections Commission on authority of the Constitution and the Elections Law.

Amos Sieh Siebo, Jr., the respondent/appellant herein, being desirous of contesting the Elections as an independent representative candidate for District # 1, Montserrado County, and in compliance with the timeline set for candidate nominations, submitted an application on July 20, 2017 to the movant/appellee to be accredited to contest the mentioned representative seat for District # 1, Montserrado County, as an independent candidate. The movant/appellee, upon receipt of the respondent/appellant's application and in harmony with the its duty to screen all candidates seeking elective public office and determine their compliance with the Elections Law and requirements, forwarded the respondent/appellant's application to its Nomination Scrutiny Review Panel for its appropriate review and recommendations. The Nomination Scrutiny Review Panel, upon inspection and review of the respondent/appellant's

application and accompanying documents, found that the respondent/appellant had complied with all of the requirements for accreditation as a candidate, except for one requirement, which was that he had failed to show that he had a headquarters within the district for which he sought to run as a member of the House of Representatives, as required by Article 79 of the Constitution.

However, notwithstanding the mentioned deficiency, the Nomination Scrutiny Review Panel recommended that the application of the respondent/ appellant be accepted and seemingly therefore, that he be accredited to contest the elections for which he had applied. The records do not reveal how the action by the Nomination Scrutiny Review Panel transitioned to the Nomination Committee or whether the procedure adopted by the movant/appellee is that any matter dealt with by the Nomination Scrutiny Review Panel is then reviewed by the Nomination Committee. Prior matters which have come before the Court have not revealed such to be the process. We shall nevertheless not dwell on that issue as there is nothing in the records showing that any exceptions was taken by the respondent/appellant to the procedure or appealed to the Board of Commissioners of the NEC. What the records do show is that the respondent/appellant's application shows up next before the Nomination Committee of the NEC.

The records show further that the Nomination Committee, on review of the respondent/appellant's application and accompanied documents intended to evidence compliance with all of the requirements of the Elections Law, including the Regulations and Guidelines promulgated by movant/appellee, and upon a hearing had on July 25, 2017, determined that because the respondent/ appellant had failed to maintain headquarters within District #1, Montserrado County, the district for which he had applied as a candidate for the House of Representatives in the ensuing October 2017 Elections, it was recommending to the Board of Commissioners of the movant/appellee institution that the respondent's application be rejected.

The constitutional provision upon which the Nomination Committee relied in making its recommendation to the Board of

Commissioners of the NEC is Article 79(c)(iii). The Article provides that: *"No association, by whatever name called, shall function as a political party, nor shall any citizen be an independent candidate for election to public office unless the headquarters of the association or independent candidate and his organization is situated in the electoral center in the constituency where the candidate seeks election as a member of the House of Representatives or to any other public office."*

Furthermore, the Nomination Committee, during its hearing into the respondent/appellant's application, also found that the respondent/appellant had been arrested and charged by the Liberian National Police with the crimes of criminal conspiracy, theft of property and offenses relating to fraudulent Registration Cards, in violation of various sections of the Penal Law of Liberia, and that the case was still pending before the Magisterial Court. As such, the Committee noted that in the absence of the respondent/appellant providing satisfactory clarity on the resolution of the criminal charges levied against him, a further basis existed for denial of his application. Hence, it concluded that in addition to the other ground stated, coupled with "public policy reasons", it was rejecting movant/appellee's application, and thereby not allowing him to contest the representative seat for the district for which he had applied. Considering the informational importance of the Nomination Committee's ruling, we quote same verbatim as follows:

"THE DECISION OF THE NOMINATION COMMITTEE

On July 25, 2017, the Nomination Committee heard the matter involving Representative Aspirant Amos S. Siebo, Jr. The Members of the Committee are: Dir. Jospeh Yassiah; Cllr. John Wonsehleay and Atty. Cephas N. Teewia.

That on July 20, 2017, Aspirant Amos S. Siebo, Jr. submitted his Nomination application to the National Elections Commission (NEC) to contest the 2017 General Elections as a Representative candidate in District #1, Montserrado County. During review of his nomination documents, the scrutiny committee observed that the Aspirant did not have an office in District #1 where he was contesting as a candidate and, that the species of evidence

provided by the Aspirant relating to his guidelines/objectives were not sufficiently in conformity with Liberian laws.

On July 20, 2017, the aspirant was notified of the deficiencies and given the opportunity to correct same. As of the close of the nomination period on July 21, 2017, the aspirant failed to correct the deficiencies.

On July 25, 2017, the aspirant was cited to appear before the Nomination Committee to show cause why his nomination application should not be rejected.

On the day of the hearing same being July 25, 2017, the aspirant was present along with his legal counsel, Cllr. Finley Y. Karngar. During the hearing, the aspirant was asked several questions and among which were: whether he, Amos S. Siebo, Jr. was indeed the one and same Amos S. Siebo, who was reported about in the press? Who worked as a contractor with the Ministry of State and was dismissed by the President? and was charged by the Liberia National Police with criminal conspiracy, theft of property and offences relating to fraudulent Registration Cards in violation of Chapter 10; Subsection 10.4 and Chapter 15; Subsection 15.51 of the Revised Penal Code of Liberia and Chapter 10; Subsection 10.2(1)(c) and (d) and 10.2(2)(a) and (b) of the New Elections Law of 1986; and that based on the Police investigation, On February 26, 2017, Amos S. Siebo and other were apprehended by the Liberia National Police for printing voter registration cards in a house located in Karnga Town, Johnsonville, Montserrado County and the following electoral materials belonging to the Goba Town Public School Voter Registration Center were confiscated by the LNP from Mr. Amos Siebo and others:

1. **One white Canon Printer;**
2. **One white Acer Computer;**
3. **Two black Universal rechargeable power ban (EF-638);**
4. **One black NEC camera;**
5. **Ten Voter Registration Forms (six with applicant's photos);**
6. **One Voter Registration Manual for staff and users;**
7. **One post care size;**
8. **One photo cutter;**
9. **Three (3) Cameras and photo printer cords;**

10. **One calculator**

To the question of whether Mr. Amos S. Siebo, Sr. is the one and same person who was charged by the Liberia National Police for the reasons stated above, Cllr. Finely Y. Karngar answer Yes, but his client Amos S. Siebo, Jr. is innocent and has not being indicted by the Court.

Further, the Committee notes that the Aspirant did not address the issue surrounding his establishment of office in the District in which he intends to run as a representative candidate.

The Committee also notes that consistent with the NEC's core values of fairness, transparency, credibility and integrity and, considering the charges levied against Mr. Amos S. Siebo by the Liberia National Police (LNP) which also involve registration fraud and also from the admission of the Aspirant's Counsel that his client (Amos S. Siebo, Jr.) is the one and same Amos S. Siebo charge by the LNP and whose matter is still pending before the Court.

The Committee takes judicial notice of all the information relating to Mr. Amos S. Siebo, Sr. and says that in the absence of a clearance from the Court and based on public policies reasons, Mr. Amos S. Siebo's application is hereby rejected.

GIVEN UNDER OUR SIGNATURES, THIS 25TH DAY OF JULY, A.D. 2017

_____

JOSEPH YASSIAH

DIRECTOR

Political Liaison/NEC

_____

JOHN WONSEHLEAY

COUNSELLOR-AT-LAW

Legal Consultant

CEPHAS N. TEEWIA

ATTORNEY-AT-LAW

National Elections Commission"

From the decision stated in the quoted ruling of the Nomination Committee, the respondent/appellant noted exceptions and announced an appeal to the Board of Commissioners of the National Elections Commission (NEC). The appeal basically challenged the decision of the Committee on grounds that (a) the Committee overlooked the fact that the respondent/ appellant did have headquarters in District # 1, Montserrado County; (b) that the Committee's decision to disqualify him on grounds of public policy was erroneous since he had not yet been convicted in any court for electoral fraud, and that even assuming *arguendo* that he was convicted for the commission of the alleged crimes, the New Elections Law does not prescribe disbarment as a penalty for the alleged offenses.

The Board of Commissioners, on August 3, 2017, conducted an appeal hearing into the matter and entertained arguments on both the contentions raised by the respondent/appellant and the resistance thereto. One week thereafter, on August 10, 2017, the Board entered its ruling affirming the Nomination Committee's rejection of the respondent/appellant's application, thereby denying the

respondent/appellant's appeal. We quote herewith the relevant portions of the Board's ruling as follows, to wit:

"Having heard the oral arguments of Counsels for both sides, reviewed the Ruling of the Nomination Committee, as well as Appellant's Bill of Exception, two (2) issues are determinative of this Appeal:

1. **Whether or not where an Aspirant for the House of Representatives does not maintain an office in the District he/she seeks to represent, as mandatorily required by the Constitution, such person should be allowed to contest to represent that District?**
2. **Whether or not where an Aspirant is charged with committing fraud which is an electoral offense as in the instant case, such Aspirant should be allowed to contest an election for the House of Representatives?**

DISCUSSION:

1. **To answer issue #1 if whether or not where an Aspirant for the House of Representatives does not maintain an office in the District he/she seeks to represent, as mandatorily required by the Constitution, such person should be allowed to contest to represent that District, we will first take recourse to the relevant laws controlling, Article 79 of the 1986 Liberian Constitution states:**

Article 79 (c)

No association, by whatever name called shall function as a political party, nor shall any citizen be an independent candidate for election to public office, unless:

1. **The headquarters of the association or independent candidate and his organization is situated:**
2. **In the capital of the Republic where an association is involved or where an independent candidate seeks election to the office of President or Vice President.**
3. **In the headquarters of the county where an independent candidate seeks election as a Senator; and**

- **In the electoral center in the constituency where the candidate seeks elections as a member of the House of**

Representatives or to any other public office. (Emphasis supplied)

Section 4: Entitled: Independent Candidate for the House of Representatives; Subsection 4(h) of NEC Regulations and Guidelines Relating to Political Parties and Independent Candidates, published February 13, 2017.

Subsection 4(h)

"An Independent candidate for the House of Representatives shall be required to establish and maintain at all times a functioning and furnished office in the headquarters of the District concerned."

Article 79(c)(iii) is unambiguous. It clearly states that unless an Independent Aspirant maintains an office in the District he/she seeks to represent, he/she shall not contest election as a representative for that district. Also, Section 4 Subsection 4(h) of NEC's Regulations and Guidelines Relating to Political Parties and Independent Candidates goes further to say that such office shall be maintained at all times.

Appellant Amos S. Sieboe has failed and neglected to maintain an office in District #1, Montserrado County. The Board of Commissioners says that this failure to maintain an office in District #1, Montserrado County alone constitutes sufficient legal ground to reject the application/candidacy of Appellant Amos S. Siebo, Jr., to contest for District #1, Montserrado County.

The Commission notes that under Article 2 of the Liberian Constitution, it is stated that the Constitution is the supreme and fundamental law of Liberia and its provision shall have binding force and effect on all authorities and persons throughout the Republic. Appellant Amos S. Siebo's violation of Article 79(c)(iii) of the Liberian Constitution of 1986 leaves the Commission with no other option but to reject and deny his Application to contest for District #1, Montserrado County in the 2017 General Elections. Therefore, the answer to issue #1 is No.

To answer issue #2, we say that the protection of the integrity and credibility of the Commission is paramount and indispensable to conduct a free, fair, transparent and credible

election. When you take away these values from an Election Management Body, the consequence will be chaos. Furthermore, Public Policy requires that in the administration of all laws, the public interest should be guided and protected. The Board of Commissioners agrees with the Nomination Committee and Counsels for Appellee that, to allow Appellant Amos S. Siebo to contest for District #1, Montserrado County Representative seat will undermine the core values of the Commission, namely: integrity, credibility, transparency and fairness. We further believe that to allow Mr. Siebo to contest will also expose the Commission to public ridicule and play into hands of the Commission's detractors.

We also construe Chapter 2 Section 9; Subsection (a) of the New Elections Law of 1986 which empowers the Commission to administer and enforce all laws relative to the conduct of elections throughout the Republic of Liberia to include the administration and enforcement of Article 79(c)(iii) of the Constitution, Section 4; Subsection 4(h) of the NEC's Regulations and Guidelines Relating to Political Parties and Independent Candidates, as well as Section 2.9(a) of the New Elections Law of 1986 taking judicial notice of the Honorable Supreme Court's definition of Public Policy in the case: Lib. Realty Management Corp. v Montgomery [1985] which states that Public Policy is defined as the principle of law which declares that no person can lawfully do that which had the tendency to be injurious to the public or against the public good, and which may be designated as the policy of the law or policy in relation to the administration of the law.

Because the facts in this case are similar to those in a scenario which occurred in 2005, we hereby take quasi-judicial notice of Historical Facts (For Reliance, see Chapter 25, Section 2; page 196 of the Civil Procedure Law). During the conduct of the 2005 General Elections, a scenario took place in Gbarpolu County wherein one of the aspirants connived with a poll worker and they fraudulently increased the valid votes cast in favor of the said aspirant which made it to appear like the unscrupulous aspirant obtained the highest number of valid votes cast in the Senatorial race. However, the fraud was brought to the attention of the Commission. Upon said notice, the Commission

conducted an investigation and discovered that in fact the unscrupulous candidate was not the winner of that Senatorial race since in reality he did not obtain the highest number of valid votes cast. As a result of this fraud, the Commission postponed the announcement of the Result of that Senatorial Race in 2005 until the investigation was concluded and it was established that the aspirant who really obtained the highest valid votes cast was declared the winner of the Gbarpolu County Senatorial Race in 2005.

So, the Decision of the Nomination Committee to reject the Nomination of Appellant Amos S. Siebo, Jr. is in harmony with the 2005 Decision of the Commission.

WHEREFORE AND IN VIEW OF THE FOREGOING, the Board of Commissioners confirms the July 25, 2017 Ruling of the Nomination Committee Rejecting the Application of Appellant Amos S. Siebo, Jr., to contest as a Representative Candidate in District #1, Montserrado County. AND IT IS HEREBY SO ORDERED.

GIVEN UNDER OUR HANDS AND SEAL

NATIONAL ELECTIONS COMMISSION THIS

10th DAY OF AUGUST, A.D. 2017

_____

JERROME G. KORKOYA, J.D.

CHAIRMAN

_____

CLLR. SARAH M. TOE

CO-CHAIRMAN

_____

HON. SAMUEL Z. JOE

COMMISSIONER

CLLR. JEANETTE A. EBBA DAVISON

COMMISSIONER

HON. DAVIDETTA BROWNE LANSANAH

COMMISSIONER

HON. BOAKAI A. DUKULY

COMMISSIONER"

The respondent/appellant excepted to the Board's ruling, quoted above, announced an appeal therefrom to the Supreme Court, secured on August 11, 2017 a recognizance bond of US$2,000.00 (Two Thousand United States Dollars), and thereafter, on August 15, 2017 filed his bill of exceptions, which was approved by members of the Board of Commissioners on August 15, 2017 and August 16, 2017 respectively. On the same date of August 16, 2017, the respondent/appellant filed his Notice of Completion of Appeal, believing thereby that he had completed the appeal process stipulated by the Elections Law and the Guidelines of the NEC.

In the bill of exceptions, the appellant assigned to the Board of Commissioners a number of errors which he said were committed, including (a) the Board's affirmance of the Nomination Committee's findings and conclusion that he did not possess a headquarters in District #1, which he said constituted mere allegation which were not proved at any hearing or by any form of investigation; (b) his disbarment for alleged criminal charges levied against him in the Magisterial Court by the Liberian National Police, which he said was not only tantamount to a denial of his civic and political rights but also amounted to an ex post facto application of the law; (c) that disbarment was not one of the penalties prescribed for the alleged violation claimed to have been committed by him; and (d) that the ruling of the NEC rejecting his application without him having been tried and convicted but on the basis of an alleged "public policy"

was vague, ambiguous and politically motivated. We quote counts 1, 4, 7, 15 & 18 of the respondent/appellant's bill of exceptions as we believe those counts reflect opportunities lost in the appeal process:

1. **That the National Elections Commission committed a reversible and prejudicial error when NEC ruled that from the scrutiny of the Appellant's application, the Committee "observed that the aspirant did not have an office in District #1 where he was contesting as Independent candidate", because the statement is false and misleading. That is, the Appellant does not only have an office within the subject District #1, but his office is known to everyone within the location of the office. Appellant says when this question was raised by NEC, he displayed photos and video clips, showing his office and rallies ongoing at the office. Applicant also invited NEC to visit has office during the hearing. Even though he requested this, NEC failed and neglected to do so, rather NEC followed the misleading information from its Nomination Committee, which merely asserted that he did have an office, amounting to mere assertion. "Mere assertion does not constitute proof, but must be supported by evidence so as to warrant a court or jury accepting it as true." This NEC failed to do or to visit his office as per his prayer. It is the law in this jurisdiction that "he who alleges the existence of fact must prove them and must do so by the best available evidence." Chapter 25, Sections 5 and Chapter 25, section 6 of the Civil Procedure Law of Liberia. NEC did not provide any exhibit or record to support their allegations. For these reasons, Appellant tenders this bill of exceptions for your NEC's approval.**
2. **That, NEC erred and committed reversible error on the second reason to reject Appellant's application; that is, based on the rejection on NEC's core values of integrity, credibility, transparency and fairness, because these words were not included as part of the requirements for candidates' nomination, and Appellant did not know if these new rules applied equally to all applicants. Inclusion of new standards or requirements, at the time he has already satisfied the published requirements of Article 79 (c) of the Constitution of Liberia and the Guidelines and Regulations relating to**

registration of Political Parties and Independent Candidates, as evidence by the issuance of his "Candidate Nomination Printout 910," on July 20, 207 by NEC, amounts to ex post facto, which is prohibited by the Constitution and international treaties to which Liberia is a State Party. Hence, "[n]o person shall be made subject to any law or punishment which was not in effect at the time of commission of an offense, nor shall the Legislature enact any bill of attainder or ex post facto law." Liberia Constitution Article 21. Also, this fundamental requirement is in harmony with the Economic Community West African States protocol Article 3 on Political Participation, 2001. It says election body should "be independent or neutral and shall have the confidence of all the political actors." Thus, the action of NEC is prejudicial and discriminatory to deny Appellant based on ambiguous rules established particularly for him, namely, integrity, credibility, transparency and fairness. For which, Appellant tenders these Bill of Exceptions.

3. **Furtherance to Count 6 above, and still discussing the errors, mistake and prejudicial rejection of Appellant's Nomination based on Public Policy, Appellant says NEC should take quasi-judicial notice of the general and final Nomination exercise for the 2017 General and Presidential Elections, which took place between June 19—22, 2017. By June 20, 2017, Appellant received his nomination package from NEC and filed his final nomination documents on June 20, 2017 at about 11:18am; he thereupon paid the final document process fees of US$500 (FIVE HUNDRED UNITED STATES DOLLARS) in NEC's Operation Account Number: 02-206-300-27-02, which enable him received his "Candidate Nomination Printout 910." Notwithstanding Appellant's qualification, his name was not included amongst the list of qualified candidates to begin his campaign, as authorized by NEC, without any notice of rejection to his nomination application. Moreover, NEC did not inform Appellant in any manner of his rejection until at the hearing of August 3, when public policy was raised for the first time as an issue, for his rejection. This action of NEC leaves the ordinary man wondering on what purpose is "Public Policy" cited or used as a condition precedent in the nomination exercise. Therefore, appellant is**

finding it hard and challenging to comprehend why NEC has introduced a new and strange requirement, and citied administrative outcome decisions, to justify the rejection of appellant. In this jurisdiction, the decisions of lower courts or administrative hearings are not considered to be laws or precedence; instead, decisions of the Supreme Court, being the final forum of justice, are binding and mandatory to follow. And for this reason, appellant tenders this bill of exceptions.

4. **That, NEC erred and acted prejudicially, even though NEC did not conduct any investigation of the February 2017 allegations on Fraudulent Registration when it was reported by the Liberia National Police, NEC rejected the Appellant based on the LNP allegations, which is not conclusive and described same as Public Policy, which is arbitrary and unlawful, because rejection of a would-be aspirant nomination is not one of the penalties or punishments provided under the 1986 Elections Laws, as amended. The New Election Law provides that any offense in relations of registration cards, when proven, the violator/convict shall be guilty and punishable by a fine or sixty (60) days imprisonment or both: Chapter 10.2 & 10.2(2), The New Elections Laws, as amended, (1986):**

- **10.2 (1): Offences in Relation to Fraudulent Registration:**

(a) Making a false statement to an Elections Officer at any point during the voter registration process;

(b) Impersonating another person when applying to register to vote;

(c) Registering or attempting to register to vote more than once in relation to an election;

(d) Any other fraudulent act relating to voter registration.

Chapter 10.2 (2). Offenses in Relation to Registration Cards

Any person who does any of the following acts shall be guilty of an election offense and punishable by a fine or sixty (60) days imprisonment or both: [Amended in 2004]

(a) Printing or distributing any registration card;

(b) Altering any registration card;

(c) Using or attempting to use at any election, a registration card issued to another voter.

18. **That, setting standards, which is/are unique to the appellant is prohibited as ex-post facto law of the Liberia Constitution, they are emphasized by ECOWAS as unjust. Section 2, Article 3 of ECOWAS Protocol on Political Participation, (2001), specifically states that "[n]o substantial modification shall be made to the electoral laws in the last six (6) months before the elections, except with the consent of most Political actors." This rule is breached when NEC unilaterally established a rule to reject the Appellant based on police allegations or because of allegations before a court, wherein there has been no arraignment of the Appellant to plead guilty or not guilty. In addition, the police allegations are politically motivated owing to the strength and popularity of the Appellant. Assuming without admitting that the allegations have any basis in facts and law, why is it the Police or the state unable to prosecute the Appellant? The answer is simple, there is no truth to the allegations and this supports the Appellant claims of politically motivated allegations against him. Hence, the rejection of the appellant does not have any basis in law and facts, but rather demonstrates speculations and political considerations, which violates the goals of public policy. The goal of public policy is to further public interest, which is the highest standards of government actions, the measure of the greatest wisdom or morality in government. There is always an equitable balance between public policy and the interest of the individual, this is guaranteed by the Constitution, which holds that everyone accused is innocent until proven guilty by a court of competent jurisdiction. This balance of public policy to individual interest is cardinal principal to our jurisprudence, which cannot be set aside based on public perception, as articulated by NEC to reject appellant. And for this, appellant tenders this bill of exceptions for your approval."**

Ordinarily, the filing of the approved bill of exceptions would vest jurisdiction in the Supreme Court to become seized of the appeal and to entertain hearing thereof on the merits. This is what this Court had anticipated in respect of the appeal taken by Respondent/Appellant Amos Sieh Siebo, Jr. from the decision of the Board of Commissioners of the NEC. However, when the case was called for hearing on the merits, the Court was informed by the movant/appellee that on August 21, 2017, it had filed with the Court a motion to dismiss the appeal taken by the appellant for reasons that: firstly, the appellant's bill of exceptions had been filed without the forty-eight (48) hours statutory time designated by the Elections Law for taking such appeal, and that the failure to comply with the referenced provision of the Elections Law deprived the Supreme Court of the required legal jurisdiction to entertain the appeal; and secondly, that the appellant had failed to meet the recognizance requirement, i.e. a deposit into the account of the NEC of US$2,000.00, which is a precondition for completion of the appeal. The critical nature of the motion to dismiss dictates that we take recourse to quoting verbatim the said motion, which we do herewith as follows:

MOVANT NEC'S MOTION TO DISMISS APPEAL

Now comes Movant National Elections Commissions (NEC), praying this Honorable Board of Commissioners to dismiss the appeal announced by Respondent Amos S. Siebo for the following legal and factual reasons, to it:

1. **That on August 10, 2017, this Honorable Board of Commission in the above captioned case rendered final ruling dismissing and denying the appeal brought by Respondent Amos S. Siebo. Not satisfied with the said ruling of the Board, Respondent announced an appeal to the Honourable Supreme Court. This Board is requested to take notice of the record in this case.**
2. **That section 5.12, subsection 6 of the New Elections Law (as amended), provides that a "decision of the Commission on an appeal from the decision of the Magistrate or Chief Hearing Officer may be appealed to the Supreme Court within 48 (Forty eight) hours after the posting of the decision." See also Article 5 subsections 5.4 and 5.5 of the Regulations on**

Complaints and Appeals as found in NEC's Compiled Regulations. (August 22, 2016). See also sections 2.9 (a) of the New Elections Law of 1986.

3. **That notwithstanding the mandatory language of section 5.12, subsection 6 of the New Elections Law, Respondent has failed to perfect his appeal in that, he has failed to present a Bill of Exceptions for the Board of Commissioners' approval within 48 hours as mandated by the Election Laws controlling.**
4. **That in addition to presenting a Bill of Exceptions for this Board's approval within 48 hours of this Board's final ruling of August 10, 2017, Respondent/ Appellant Siebo was required to enter into a recognizance in Liberian dollars to the value of US$2,000.00 with the National Elections Commission as a condition precedent for taking an appeal from the Board of Commissioners to the Honorable Supreme Court. For reliance, see: Section 6.8(c) of the New Elections Law.**
5. **That although familiar with the mandatory requirement of Section 6.8(c) of the New Elections Law, Respondent/Appellant failed to enter into said recognizance with the National Elections Commission regarding the instant appeal.**
6. **That the Honorable Supreme Court has held that entering "into a recognizance was intended as one of the conditions preceding the taking of an appeal from the Board of Commissioners of NEC to the Supreme Court." And, that "all parties appealing from decisions of NEC to the Supreme Court shall enter into recognizance before NEC as a prerequisite for taking of an appeal to this Court." For reliance, see: *National Elections Commission, Unity Party and Bill Twehway versus Kuku Dorbor, David Flomo and Soko Gbardyu* (Motion to Dismiss, pages 13 & 14, decided by the Honorable Supreme Court on June 26, 2012).**
7. **That Respondent/appellant's failure to comply with the statutory prerequisites for perfection of an appeal from NEC's Board of Commissioners makes the instant appeal dismissible by this Honorable Board. Movant/ Appellee respectfully requests this Board to take notice of the Clerk Certificate hereto attached and marked as exhibit M/1 to form a cogent part of this motion.**

WHEREFORE AND IN VIEW OF THE FOREGOING, Movant prays this Board to grant this Motion, dismiss Respondent Siebo's appeal for failure to file his Bill of Exceptions within 48 (forty-eight) hours and perfect, and grant unto Movant any and all other relief which are legal, just, and proper."

In response to the motion, the respondent/appellant filed a twenty-two (22) count resistance, stating basically that the forty-eight (48) hours' time frame was inapplicable to this case since the final decision of the Board of Commissioners of the NEC emanated from a Nomination Committee which the New Elections Law does not recognize, as compared to a hearing officer or magistrate of the National Elections Commission (NEC); that the respondent/ appellant did not receive a copy of the Board's final ruling until August 11, 2017, and that he made frantic effort to file his bill of exceptions within the statutory period but that due to traffic congestion he could not reach the Commission's office on time. The respondent/appellant also denied that he had failed to comply with the statutory recognizance requirement. He exhibited a receipt showing that he had met the requirement and that as such the appeal could not be dismissed on that ground. We quote, for the benefit of this Opinion, counts 11, 12, 13, and 20, of the twenty-two (22) counts resistance which we deem germane to the determination of this case. The said counts read thus:

"11. That, as to counts 8 and 9 of movant's motion, respondent says when he excepted to the final ruling of NEC on August 10, he did not receive a copy of the final ruling until August 11, 2017; and he immediately entered into recognizance with the National Elections Commission by the payment of US$2,000 into NEC's Central Bank Account. Respondent requests Court to take judicial notice of respondent/appellant's bill of exception, which contains a copy of the Central Bank of Liberia Pay-in-Slip No. 0342088 of US$2,000 deposited in NEC's account number 0220630002700. The said account number was given Respondent by instruction from Attorney Teage to one Korpu, phone # 0886538622, of movant's finance office. Thus, satisfying the requirement to be within the appealing requirement;

12. **That, as to counts 90, 11 and 12 of movant's motion, same should be overruled, denied, and rejected, because the New Elections Law, as amended, contemplates specific decisions from specialized functions of NEC to be appeal from, and the decision from which respondent appealed is not from any of the specialize positions named in the Elections Law. That is, respondent did not appeal from a decision of a magistrate or a chief hearing officer; rather, respondent appealed from a decision which emanated from a non-sanction committee, which is irregular. It is a three-man committee without head. Chapter 5, section 2, subsection 3 provides that "the Commission may appoint hearing officers to assess, investigate and assist Magistrate to determine complaints, and a Chief Hearing Officer to make an initial determination on complaints to the Commission." There is nowhere in the New Election Law or regulation that speaks of the functions or powers of a Nomination Committee. Because this is an irregular body, its decision is not binding, especially given that it failed to report its finding to a Magistrate or the Chief Hearing Officer to have afforded Respondent due process for the initial determination of the Complaint before it is taken to the Board of Commission.**
13. **Further to count 10 and still traversing counts 9, 10, 11 and 12 of movant's motion, Respondent says while the law provides flexibilities for the NEC to carry out its duties, it provided safeguards when it says "[t]he Commission may appoint hearing officers to assess, investigate and assist Magistrates to determine complaints, and a Chief Hearing Officer to make an initial determination on complaints to the Commission." Chapter 5, section 12, subsection 3 of the New Elections Laws.**
14. **That, Respondent says he took substantial steps to be within the appeal status; that he entered recognizance on August 11; on August 14, he called Attorney Teage/phone number 0888 734746, informing Attorney Teage that he was finding it challenging to reach the Commission due to huge traffic jam, and Attorney Teage of NEC's Legal Office informed Respondent it was okay, given that he had entered recognizance on August 11th to file the next day. Respondent says the New Elections Law, as amended, like the Code of**

Conduct, is new and unfamiliar to many practitioners to include NEC. To this, Respondent requests Court to note its minutes of July 13, 2017 in the Karnwea/Liberty Party case, when NEC responded to: "can you refer to the specific law…?" question by the Bench; in which NEC replied, "Section 2.10 of the elections law is evolving because, like the code of conduct, the law is new and it has many challenges," which include traffic jam and others."

At the call of this case for hearing on August 25, 2017, the respondent/ appellant made a submission requesting the Supreme Court to consolidate the motion to dismiss and the appeal. As the movant/respondent interposed no objections to the submission, plus the fact that this Court is obligated by law to hear and determine elections cases expeditiously and without any delay, the submission was granted and the motion to dismiss and appeal were ordered consolidated. Pursuant thereto, lawyers from both sides argued their theory of the case and the reasons believed to be supportive of their respective positions.

The contentions of the parties, as culled both from the records and their arguments before us, beg the resolution of two issues, one procedural and the other substantive, deemed critical to the determination of the instant proceedings. The issues are:

- **Whether or not the respondent/appellant completed his appeal within the statutory period as would vest jurisdiction in the Supreme Court to hear and make a determination of the merits of the case;**

- **Whether or not the Board of Commissioners erred in confirming the ruling of the Nomination Committee which disqualified the respondent/ appellant from contesting the October 2017 General Elections.**

We begin with the first issue as same presents a question of this Court's jurisdiction to review the merits of the appeal. This is not only because in order for the Court to determine the merits of the

case it must first assure itself that it is jurisdictionally clothed with the authority to hear and determine the appeal on the merits, but also that its action and consideration of the merits of the case and judgment entered therefrom are sanctioned by law; for if the law does not sanction such action or confer such jurisdiction, the rendition of a judgment in the case would be a usurpation of power and would make the judgment itself *coram non judice and ipso* facto void. *Ministry of Labor et al., v. Natt, Supreme Court Opinion, October Term, 2007; Scanship v. Flomo*, 41 LLR 181, 188 (2002); *Ministry of Lands Mines and Energy v. Liberty Gold*, Supreme Court Opinion, march Term, 2013.

The Supreme Court, in a plethora of Opinions, both of the distant past and in more recent times, has opined that:

"Whenever the issue of a court's jurisdiction is raised, every other thing in the case becomes subordinated until the court has determined its jurisdiction to hear and dispose of the particular matter. This is true because if a court lacks jurisdiction to entertain a matter, whatever decision or judgment is rendered by it is a legal nullity. Therefore, it is necessary that the court should determine its jurisdiction over the question which its judgment assumes to answer or give relief." *MIM Liberia Corporation v. Toweh*, 30 LLR 611(1983); *Kamara v. Chea & Satto,* 31 LLR 511 (1983); *Scanship (LIB) Inc., v. Flomo*, 41 LLR 181, 186(2002); *The Intestate Estate of the late Chief Murphey-Vey John et al. v. The Intestate Estate of the late Bendu Kaidii et al*., 41LLR 277, 282 (2002); *The Management of Paynesville City Corporation v. The Aggrieved Workers of Paynesville City Corporation,* Supreme Court Opinion, March Term, A. D. 2013; *Loiuse Clarke-Tarr v. Daniel K. Wright,* Supreme Court Opinion, March Term, A. D. 2015.

Given the facts herein, as revealed by the records certified to this Court, and the laws referenced above, the query then is whether the respondent/ appellant complied with the procedure prescribed either by the legislature under the Elections Law, enacted pursuant to the authority granted by Article 34 of the Constitution, or with the Regulations and Guidelines prescribed by the National Elections Commission, promulgated pursuant to the powers conferred upon that Body by the Elections Law, as would enable this Court to acquire jurisdiction over the case and

make a determination on the merits of the appeal. We take note that neither of the parties to the case has challenged the constitutionality of the Elections Law and hence we proceed on the premise that the law is constitutional and that our examination is limited to only a determination of whether the appellant complied with the requirements of the Elections Law, Regulations and Guidelines which the parties concede are mandatory and necessary prerequisites for this Court to assume jurisdiction over the appeal.

We observe, from the onset, that the Elections Law is silent on the procedures to be followed in the case of the rejection of the nomination application of an aspirant seeking to be a candidate in an ensuing public election, as in the instant case. There is no specific mention in the law that an aspirant whose application for accreditation to participate in an ensuing election is rejected by the National Elections Commission is required to appeal said rejection to the Supreme Court within a specified period of time. Although Chapter 2, sub-section 2.9 (e), which speaks to the general powers of the Commission, unreservedly grants to a political party or independent candidate whose registration has been rejected or certificate of registration has been revoked the right to appeal such decision to the Supreme Court, the section is void of the procedures for taking such appeal. This is how the provision reads:

"Upon objections made by any person or group of persons, the Commission may reject, and if already registered, revoke the certificate of accreditation of said party or independent candidate, subject to an appeal to the Supreme Court of Liberia."

Thus, consistent with other provisions of the Constitution which grant to parties against whom decisions have been rendered the right of appeal, and in harmony with Article 34 of the Constitution vesting in the Legislature the right to enact the Elections Law, the power to prescribe the procedures to be followed in perfecting an appeal to the Supreme Court is delegated to the Legislature, or to such Body(ies) as the Legislature may vest authority in to designate such appeal procedures, consistent with the Constitution and statutory laws of the land. We note that under authority granted to the

Legislature by Article 34 of the Constitution, the Legislature, in 2006 enacted the New Elections Law.

Chapter 4 of the Elections Law, which focuses on the "Conduct of Elections" and which at subsection 4.5 deals with "Nomination of Candidates" is, unfortunately, similarly silent on the procedures to be pursued in cases where an aspirant's application for nomination is rejected by the National Elections Commission. In the absence of the precise procedures in the men-tioned statute dealing with appeals from denials of nominations of candidates, the movant/appellee, in its motion to dismiss the appeal announced by the respondent/appellant to the Supreme Court, has relied on section 5.12(6) of the Elections Law. We cannot accept Section 5.12(6) which the movant seeks to use as authority for asserting that the appellant had violated the appeal time frame requirement within which to file his bill of exceptions as the Chapter under which the provision falls, being Chapter 5 of the Elections Law, does not deal with candidates or aspirants registration or the registration process, but rather deals exclusively with voting. Accordingly, we hold that the procedures for the filing of complaints articulated in Chapter 5, and especially at subsection 5.9 through 5.12(6), apply squarely to the time of 'voting' and not 'nomination of candidates'. Hence, the section relied upon by the movant/appellee is not applicable to the instant case which involves candidates' nomination or the nomination process, but rather that the section applies instead to challenges emanating from complaints on irregularities noticed during voting or connected to the voting process. We take note, and impress on counsel for movant to do the same, that each chapter of the Elections Law deals with separate and distinct topics or aspects of the elections and that unlike Chapter 4 which deals with the general conduct of elections ranging from the setting up of voting precincts (4.1), polling places (4.2), Elections Writs (4.3), duty of the magistrate (4.4) through Nomination of Candidates (4.5) to the close of the polls (4.12), chapter 5 only deals exclusively with 'voting' and no more.

Moreover, Chapter 5 is clear that as a result of a hearing of a complaint under that Chapter, filed pursuant to section 5.9, the Commission may only do one or more of the following:

- **Dismiss the complaint**

- **Order that a ballot box be re-opened and re-counted**
- **Order a re-vote at a polling place or polling station;**
- **Refer a complaint to the Minister of Justice for prosecution if it believes that there is credible evidence of a crime or**
- **Order a punishment within the authority of the commission under this law.**

The Commission cannot simply dismiss a complaint in a matter that involves the acceptance or rejection of an aspirant's nomination application; neither can there be any ballot box to be re-opened and re-counted at the stage of nomination, nor will there be a vote taken at a polling place for which a re-vote could be ordered. Thus, the provision of the Elections Law referenced by the movant/appellee cannot be used to support the instance of a denial of a candidate's registration to contest an election, which is the matter before us.

But even more disconcerting for us is that the respondent/appellant chose not to challenge the reliance of the movant/appellee for the motion to dismiss the appeal, but chose instead to adopt a position that centered on the nomenclature of the committee or individual(s) designated by the National Elections Commission to perform the task of determining whether the respondent/appellant had met the statutory requirements for registration as a candidate. It is the contention of the appellant that since the referenced provision states that "the Commission may appoint hearing officers to assess, investigate and assist Magistrate to determine complaints, and a chief hearing office to make an initial determination on complaints to the Commission", the name of the Nomination Committee not having been mentioned in the New Elections Law, it could not have made a decision to reject the appellant's application.

The argument gives the impression that had the decision to reject the appellant been taken by a hearing officer or chief hearing officer or a magistrate rather than the Nomination Committee, the appellant would not have posed the present challenge regardless of whether or not the said hearing officer, magistrate or chief hearing officer had proceeded by wrong rules. It implies that the respondent/appellant would have accepted the outcome of the hearing officer, magistrate or chief

hearing officer's decision although the said officers applied rules which were squarely applicable to 'voting' and therefore could not have affected a candidate's nomination.

Moreover, we are tempted to ask the question, if the respondent/ appellant was of the belief that the Nomination Committee was without authority to make such a determination of rejecting his application, why did he appear before the Nomination Committee without raising any objection to its jurisdiction to process his application; why did he appear before the Board of Commissioners to review the decision of the Nomination Committee without questioning the jurisdiction of the Nomination Committee? Or had the Nomination Committee qualified him to contest the elections, would he have objected to the findings of the Committee on the basis of jurisdiction? We have made the point only to alert the respondent/appellant of the insignificance of the arguments made and that he had chosen an issue which squarely was a non-issue since the National Elections Commission is statutorily clothed with the authority to establish within the institution such components as may be necessary to help facilitate the work of the Commission. We shall therefore not dwell any further on that issue and instead revert to the core issue of whether the respondent/appellant filed his bill of exceptions without the time prescribed or allowed by law.

In regard to the foregoing, we note that the National Elections Commission, in fulfillment of the authority granted it by the National Legislature to formulate and enforce guidelines controlling the conduct of all elections for elective public offices, and done in conformity with the provisions of the Constitution and the Elections Law, has on sundry occasions prescribed rules for the governance of elections and other related matters, including the procedures for perfecting appeals taken to the Honorable Supreme Court by person whose applications for nomination to contest an elective public position are rejected by the Commission, as in the instant case.

We take judicial notice, as the law requires us to do, [*Nasscorp v. Natt*, Supreme Court Opinion, October term, 2012] of the "Compilation of Regulations" approved and published by the National Elections Commission on August 22, 2016, which addresses the procedures for the taking of appeals to the

Supreme Court from decisions of the Board of Commissioners on the rejection of candidates' applications for nomination. Part III, Article 11, titled: "Scrutiny of the Candidate Nomination Applications" provides as follows:

"11.1. During the Candidate Nomination Period, the NEC may take all lawful steps that it deems necessary, including the holding of hearings, to verify that information and documentation submitted by the potential candidates are accurate and that the candidate is qualified under the Constitution, New Elections Law, other laws of Liberia and NEC Regulations.

11.2. In the event that an application is defective, within three (3) days of receipt of the application, the NEC shall inform the candidate of the deficiency and the nature of the deficiency. The NEC shall afford the candidate an opportunity to remedy the deficiencies, provided that such candidate submits all relevant papers to the NEC prior to the close of the nomination period.

11.3. Candidates who submit deficient nomination applications shall only have up to the end of the nomination period to correct any errors or deficiencies. Candidates who submit their applications on the last day of the nomination period will only have an opportu-nity to correct any deficiencies before the close of the final day of the Candidate Nomination process.

11.4. The NEC shall notify all aspirants in writing of its decision to accept or reject their requests to stand for elections. An aspirant whose application has been rejected may appeal the NEC's decision to the Supreme Court within three (3) days of the NEC's determination." [Our Emphasis]

The above quoted provisions of the NEC Regulations speak clearly to the issue presented in the instant case. It is predicated upon this scrutiny process that the Commission set up a 'Nomination Committee' to receive, investigate and vet all applications and upon a hearing, make an initial determination as to whether or not a particular candidate meets the requirements to contest an elective post to which he or she tendered an application. Interestingly, and contrary to the contention of the

movant/appellee, and which it seeks to impress upon us that the respondent/appellant had only two (2) days to perfect his appeal to this Court from, the decision of the NEC's Board of Commissioners, the above quoted provision of the Regulations, gives the respondent/appellant three (3) days to have perfected his appeal to the Supreme Court from the decision of the NEC's Board of Commissioners. The provision clearly and unambiguously sets out that: "*An aspirant whose application has been rejected may appeal the NEC's decision to the Supreme Court within three (3) days of the NEC's determination.*"

But there is also another provision of the self-same 'Compilation of Regulation' which is titled "Regulations on Complaints and Appeals" that similarly lays out the procedures on "Candidate Nomination Challenges". This other provision puts the time for appealing from the NEC's decision on rejection of a candidate's application for nomination to the Supreme Court at 48 hours from the date of the decision. Here is how the provision reads:

"A candidate rejected by the NEC during the candidate nomination period may appeal the NEC's decision to the Supreme Court within 48 hours after the NEC's determination." ***Regulations on Complaints and Appeals; Candidate Nomination Challenges, Article 5.1***

We note that the latter quoted provision is clearly in conflict with the earlier quoted provision which found in the self-same "Compilation of Regulations" promulgated by the National Elections Commission. We wonder why the respondent/appellant did not pick up such a glaring conflict in the one document. A contention on the effect of conflicting standards in the regulations would have gained this Court's attention not only because by the wording of the regulation, the respondent/appellant and all other persons similarly situated are left wondering as to whether the regulations require two or three days to appeal the NEC's decision to the Supreme Court but also because it is a settled principle of law in this jurisdiction that where there is a conflict in the law or a document, said conflict works against the drafters [who in the instant case is the National Elections Commission] and that the innocent responding party cannot be held answerable therefor. ***Tex L.***

Yardamah v. Comfort N. Natt et al., **Supreme Court Opinion, March Term, 2015.**

As we have done in other elections cases, the National Elections Commission is hereby again admonished to make all efforts aimed at ensuring that the Regulations are succinct, predictable, void of conflicts and available to all candidates so that they are in knowledge of the regulations and in the position to appreciate which parts of the regulations are applicable to a particular situation.

Predicated upon the above circumstances and principle of law cited, we hold that the respondent/appellant had up to three (3) days to perfect his appeal from decision of the NEC's Board of Commissioners to this Court. The question is, did the respondent/appellant complete the appeal within the three days as to confer jurisdiction on this Court to entertain the merits of the appeal. The records certified to this Court do not reveal such to be the case. The records before this Court show that the ruling of the NEC's Board of Commissioners was delivered on the 10th day of August, A. D. 2017. Taking the three (3) days computation into account, the respondent/appellant should have filed his notice of completion of appeal not later than the 13th day of August, A. D. 2017. However, since the August 13, 2017 fell on a Sunday, a non-working day, and since the number of days in the instant case is less than ten which requires the exclusion of Sundays and legal holidays, [Civil Procedure Law, Rev. Code 1:1.7], the respondent/appellant had up to the next day, the 14th day of August, A. D. 2017 to complete his appeal to this Court, inclusive of his recognizance with the NEC, the filing of his bill of exceptions and filing of the notice of completion of appeal. The records indicate that except for the recognizance aspect of the appeal, all of the other requirements, and especially the bill of exceptions, for completion of the appeal were done without the prescribed time.

The respondent/appellant's counsel, during argument before us, contended that while the final ruling of the Board of Commissions reflected that same was handed down on August 10, 2017, he actually received the said ruling on August 11, 2017. However, as he exhibited no evidence to substantiate the claim,

the Court cannot accept as true the representation made by counsel. This Court has said numerously that it is incumbent on counsel for a party face with such predicament to ensure a receipt is secured or signature placed on the instrument authenticating the exact date on which the instrument is received. There is no such evidence in the instant case. Accordingly, the Court must accept, as argued by the movant/appellee that the respondent/appellant received the ruling on the date stated in the said ruling. Thus, the respondent/ appellant had period of three (3) days within which to undertake his recognizance with the NEC and to file his bill of exceptions, given what we have said regarding the Regulations of the NEC. But further, given also what is provided in our Civil Procedure Law with respect to filing of an instrument where the time for filing is less than ten days, we are disposed to hold that the respondent/appellant had four days to enter into and file the required documents. Using that time-table, the respondent/appellant had until August 14, 2017 to fully comply with the appeal requirements in order that the appeal is perfected and that the Supreme Court is vested with the requisite jurisdiction to entertain the appeal on the merits.

Yet, the records show that the respondent/appellant submitted his bill of exceptions for approval of the Commissioners on the 15th day of August, A. D. 2017, and seemed not to have adequately attended thereto, for the said instrument shows also that some of the Commissioners did not sign thereunto until August 16, 2017, two days after the expiration of the deadline. When asked by the Court as to the reason for the none compliance with the law, counsel for the respondent/appellant intimated that he was caught in the traffic and therefore could not reach the offices of the National Elections Commission on the day and date the instrument was due for approval by the Commission and filing thereof. Indeed, the learned counsel conceded in count 20 of the resistance to the motion to dismiss that although he made frantic efforts to comply with the appeal regulation statute (i.e. the three days' time frame), he was unsuccessful in meeting the deadline as a result of traffic congestion which prevented him from reaching the Commission office in time. We find this excuse to be unacceptable and we are not prepared to condone such affront to the law.

As much as we would have preferred that a determination on this case be made on its merits, we are precluded from going any further because of the want of jurisdiction. The taking of an appeal is a journey to the Supreme Court, step by step, and when any one of those steps is missing or is defective, the journey cannot be completed. *Blamo et al. v. Management of Catholic Relief Services,* Supreme Court Opinion, March Term, 2006. This Court has always held that elections matters are special proceedings which must be heard expeditiously. *Kamara v. National Elections Commission,* Supreme Court Opinion March Term, A.D. 2017; *Jonathon Boye Charles Sogbie v. NEC*, Supreme Court Opinion October Term, A. D. 2016. Yet, this Court has also said that the steps required for taking an appeal and for conferring jurisdiction upon this Court to hear the merits of the appeal are mandatory and that except for acts or neglects recognized in law for excusing the failure to comply with the requirements, the Court is without the authority to extend the mandatory time prescribed by law. In the instant case, the excuse provided by counsel for respondent/appellant is not acceptable in law and hence cannot be given legal credence. As such, the appeal is dismissible and is therefore ordered denied and dismissed.

Mr. Chief Justice Korkpor, speaking for a unanimous Court in the *Sogbie* case of similar nature, espoused thus:

"It is incumbent on a candidate in an election to ensure that he has in place a qualified legal team so that in the event he believes that election violations have occurred, he would be in the position to adequately take advantage of the law, especially with the time-frame prescribed by the law for asserting a challenge and timely appealing from any decision related to the challenge."

This Court says that in as much as it is in sympathy with the plight of the respondent/appellant, it cannot ignore or disregard the law that compels the appealing party to shield and surround himself with the safeguards of the law by personally seeing to it that all necessary jurisdictional steps are completed within the time specified by law so that there are no grounds for dismissal

of the appeal. The respondent/appellant, in pursuing his appeal, was obligated by law to take the outmost care to ensure that the mandatory provisions of the statute are strictly complied with and thereby alleviate the risk of dismissal of the appeal. The Supreme Court in a plethora of Opinions has held that:

***"for in as much as the Court has repeatedly expressed its strong preference for deciding cases on its merit and, consequently, is hesitant to dismiss a case by reason of a mere technicality it is very important that an appellant, in pursuing an appeal takes the out-most care to ensure that the statute is strictly complied with; that the Counsel for the appellant must continuously and meticulously examine the appeal statute and make sure that it is complied with to the letter and to the full intent of the Legislature as the Court is not prepared to sacrifice the appeal statute or turn a blind eye to accommodate the errors of the appellant in perfecting his appeal. To the converse, the position of the Supreme Court has been strict compliance; and any omission in fulfilling the requirements enounced in the appeal statute is deemed fatal and a warranty for the dismissal of the appeal as the Supreme Court has been un-waving and uncompromising in its position that non-compliance with the mandatory statutory requirements for appeal cannot be deemed as mere technicality and that a case will in fact be dismissed where there are violations of the substantive statutory requirements by the appellant." Hussenni v. Brumskine*, Supreme Court Opinion, March Term, A. D. 2013.**

In view of the principle of the laws cited herein, the failure of the respondent/appellant to complete his appeal within the three days' time frame stipulated by Compilation of Regulations, Part III, Article 11, and considering that the motion to dismiss is in consonance with the law and that the Court is wanting the required jurisdiction to entertain a hearing into the merits of the appeal to determine if the Board of Commissioners was in error in confirming the ruling of the Nomination Committee, the motion is hereby granted and the respondent/appellant's appeal is ordered dismissed.

WHEREFORE, and in view of the foregoing, it is the holding of this Court that the motion to dismiss the appeal should be and

same is hereby granted. The appeal is dismissed as a matter of law.

The Clerk of this Court is ordered to send a mandate to the National Elections Commission directing that Body to resume jurisdiction over this case and enforce its judgment. Costs are ruled against the respondent/appellant. AND IT IS HEREBY SO ORDERED.

Motion to Dismiss Appeal Granted.

When the case was called for hearing, Counsellor Joseph N. Blidi, In-House Counsel for the National Elections Commission, and Counsellors Frank Musa Dean and Alexander B. Zoe appeared for movant/appellee. Counsellor Finley Y. Karngar appeared for the respondent/appellant.

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