

CR. APP. No.5/2002.

IN THE COURT OF APPEAL FOR SIERRA LEONE

BETWEEN: PAUL KAMARA-----APPELLANT/APPLICANT
AND
MAITLAND E. TOLLAH THOMPSON-----RESPONDENT

CORAM: HON. Mr. JUSTICE A. N. BANKOLE STRONGE J.A. PRESIDING
HON. JUSTICE PATRICIA MACAULAY J.A.
HON. Mr. JUSTICE A. ADEMUSU J.

GIBSON OKEKE, ESQ. FOR APPLICANT,
N. D. TEJAN-COLE, ESQ. With him A.S. SESAY, ESQ. and GLENA THOMPSON, Ms.

RULING DELIVERED BY A.N.BANKOLE STRONGE J.A. THIS 10TH DAY OF DECEMBER 2002.

In his Notice of motion dated the 2nd. day of December, 2002, the Applicant proposed to apply to this Court for the following orders:-
(a) That this application be heard notwithstanding short service of this Motion.
(b) That bail be granted to the Appellant/Applicant pending the hearing and determination of the Appeal.

At the commencement of the hearing, Mr. N.D. Tejan-Cole raised certain preliminary issues. He submitted that the Notice of Motion is not properly before the Court and should not be heard. He canvassed seven (7) preliminary objections. Of the greatest weight amongst these is: -

That the application for BAIL presupposes that there is an APPEAL before the COURT.

He submitted that Section 57 of the COURTS ACT 1965, Public Notice No. 31 of 1965, makes a clear distinction between AN APPEAL against conviction and an APPEAL against sentence. He pointed out that by RULES 40 and 45 of the RULES the proper FORMS for an APPEAL against conviction and that for an APPEAL against sentence respectively are those set out as FORM 2 and FORM 3 respectively in Appendix C of the RULES. Exhibit PK2 which purports to be a NOTICE OF APPEAL is in contravention of RULES 40 and 45 of the RULES. There is therefore no evidence of an APPEAL before this COURT as is required by Section 57 of the COURTS ACT, supra, and by RULES 40 and 45 of the RULES.

On this ground alone what purports to be a NOTICE OF APPEAL dated 2nd. December, 2002, is not properly before this COURT. I must point out that that document is replete with irregularities and errors.

Mr. OKEKE made no serious attempt to answer to the objections raised. He perhaps could not.

This COURT therefore Orders that what purports to be a NOTICE OF APPEAL dated the 2nd. December, 2002 be struck out and it is so struck out

Costs awarded to the Respondent assessed at Le: 300,000.00 (Three hundred thousand Leones)

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A. as Bankole Stronge J.A.

PATRICIA MACAULAY J.A.

A. ADEMUSU J.