

IN THE COURT OF APPEAL OF SIERRA LEONE

BETWEEN:

DR. ABDUL WAHAB LABI - APPELLANTS  
MOHAMED L. BANGURA

AND

JOHN SAHR YAMBASU  
MOHAMED AKA KOROMA

AND

ALL PEOPLES CONGRESS - RESPONDENTS

CORAM:

HON JUSTICE U. H. TEJAN-JALLOH JSC  
HON JUSTICE S. KOROMA JA  
HON JUSTICE S. A. ADEMOSU JA

HEARING DATE: 16<sup>TH</sup> JANUARY 2007-02-02

RULING: 6<sup>TH</sup> FEBRUARY 2007

ADVOCATES:

A.F. SERRY-KAMAL ESQ. FOR THE APPELLANTS  
BERTHAN MACAULAY (JNR.) ESQ. FOR THE 1<sup>ST</sup> & 3<sup>RD</sup> RESPONDENTS  
V.V. THOMAS ESQ. FOR THE 2<sup>ND</sup> RESPONDENT

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**R U L I N G**

**DELIVERED THIS 6<sup>TH</sup> DAY OF FEBRUARY 2007**

**TEJAN JALLOH - JSC**

When this appeal came up for hearing, Berthan Macaulay (Jnr.) Esq., Counsel for the 1<sup>st</sup> and 3<sup>rd</sup> Respondents took preliminary objection pursuant to Rules 19 (2) of the Court of Appeal Rules – Statutory Instrument No. 29 of 1985 that Dr. Abdul Wahab Labi nor his Solicitor or Counsel has filed a Notice of Appeal pursuant to Rule 9 Sub-Rule (1) of the Court of Appeal Rules and that the time within which an appeal can be brought against the final judgment or an Application for an enlargement of time within which an appeal can be brought against such judgment has expired. He made several legal submissions to support his contention.

Serry Kamal Esq. Counsel for the Appellant argued that it was not necessary for all appellants to sign and file the Notice of Appeal. It was enough if one of them did and in the instant case the Notice of Appeal signed and filed by M.L. Bangura - covered other would-be-appellants. He submitted that according to Rule 9 (1) a prospective Appellant was not bound to employ civil Form 1 prescribed by the Rules as the Rule does not expressly state that it must be followed. He cited Rules 40 and 41 of the Court of Appeal Rules, which specifically state that notices shall be in Forms 1, 2 or 3 in Appendix C as the case may be.

**But Rule 9 (1) reads as follows:**

*"All appeals shall be by way of rehearing and shall be brought by notice (in these Rules called "Notice of Appeal") to be filed in the Registry of the court which shall set forth grounds of appeal etc. etc."*

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Mr. Serry Kamal's submissions on Rules 40 and 41 in respect of the use of the forms and signatures are correct, but those Rules deal with Criminal Appeals and not Civil Appeals and therefore Rules are not relevant.

A careful reading of the Rules show that Rule 9 (1) is the pivot of all Civil Appeals and must be read with Rule 8, which provides that the forms set out in Appendices A and C shall be used in all cases to which such forms are applicable. The marginal note to Rule 9 (1) mentions the use of Civil Form 1 in respect of notice and grounds of appeal. That form is to be found in Appendix A, which cites Rule 9 (1).

In addition, a column designated "Appellant" is provided in Civil Form 1 and Rule 1 of the Court of Appeal Rules defines appellant to include the party appealing from a judgment, order or decree and his Solicitor or Counsel. It follows that a Notice of Appeal under Rule 9 (1) can be filed and signed by not only the party appealing from a judgment but also order or decree by his Solicitor.

In the instant case there is no notice of appeal filed by Dr. Abdul Wahab Labi under Rule 9 (1) nor signed by him or his Solicitor. The Notice of Appeal by M.L. Bangura can not serve as a substitute as he is not Solicitor or Counsel for Dr. Labi nor can he avail himself of Sub-rule 3 of Rule 11 of the said Rules.

We therefore hold that there is no appeal by Dr. Abdul Wahab Labi.

HON JUSTICE U. H. TEJAN-JALLOH JSC

HON JUSTICE S. KOROMA

HON JUSTICE S. A. ADEMOSU

  
JA   
JA