

IN HIGH COURT OF SIERRA LEONE

GLOBAL CARAT

APPLICANT

AND

THE DIRECTOR
SIERRA LEONE ROAD SAFETY AUTHORITY -
THE SIERRA LEONE ROAD SAFETY AUTHORITY -

1st RESPONDENT
2nd RESPONDENT

PRESIDING;

THE HON MR. JUSTICE REGINALD SYDNEY FYNN JA

Counsel;

Lonard Taylor Esq. for the Plaintiff /Applicant
D J Lavaley Esq. for the Defendant/Respondent

RULING dated 21st June 2016

FYNN J.A.

1. This application was commenced by Originating Notice of Motion dated 24th July 2015 for the following orders;
 - i. That this Honourable Court declares that the refusal of the Director of Sierra Leone Roads Authority to renew the licence of vehicle with registration number ADL 777 because the vehicle was issued with traffic tickets which remain unpaid for is unlawful.
 - ii. That this Honourable Court grants an order of mandamus compelling the Director of the Sierra Leone Roads Authority to renew the licence of vehicle with registration number ADL 777
 - iii. Damages for loss of use of vehicle with registration number ADL777
 - iv. Any further order as the court may deem fit and just.
2. The motion is supported by an affidavit sworn to by Lornard Taylor Esq. dated 24th July 2016. The deponent holds out that the applicant owner of vehicle with registration number ADL777 (referred to herein as "the vehicle") had sent one Mohamed J. Sillah to

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CORAM: Reginald Sydney Fynn JA

renew the vehicle's licence as required by law under Section 3(2) of the Road Traffic Act of 2007. On arrival at the respondent's premises Mr. Sillah was unable to complete his assignment as *"officials of the defendant's refused to conduct the licensing process"*.

3. This refusal was, it appeared, due to the fact that the vehicle had been issued with four traffic tickets over a period, which tickets have remained unpaid for and which still continues to be unpaid. Mr. Sillah promptly requested a copy of the "ticket query" and that was printed out for him and is exhibited to the affidavit in support as exhibit LT3. The applicant indicates that he wishes to contest the spot fines. The deponent further states that because of the refusal to renew the vehicle's licence it has had to hire a vehicle at the cost of Le 1,500,000 a day. A receipt for the original hire is exhibited as LT4.
4. The applicant argues that the respondent has no power to refuse the renewal of licence on the grounds of nonpayment of spot fines. He argues that the procedure which should be followed when a "spot fine" is not honoured is provided for in Section 26 (c) (4) of The Road Transport Authority Amendment Act 2003.
5. The respondents have filed an affidavit in opposition sworn to by Daniel J Lavaley Esq. and dated 9th May 2016. In their defense the deponent says that the respondents have not refused to license the vehicle but rather that it is the applicant who is disobeying the law by refusing to pay the spot fines levied. The deponent asserts that the application is but a waste of the court's time in aid of the applicant's alleged unlawful conduct.
6. The respondents also argue that the applicant had failed to comply with Section 33 (1) & (2) of the Road Traffic Authority Act 1992 which provides that no action shall be brought against the authority without first giving notice to the authority about the intention to commence action against it. In reply the applicant contends that they are in violation of no law whatsoever and that in fact the Road Traffic Act 1992 to which the respondent refers has been repealed.
7. Certain questions come up for determination in this case and their answers will help bring this matter to an end. Among them are the following:
 - i. Are spot fines uncontestable and not subject to any review.
 - ii. How can the SLRSA enforce spot Fines?
 - iii. Did the SLRSA refuse to renew the Licence?
 - iv. If yes, was it entitled so to Do?
 - v. What is the full purport of the law relating to non-payment of spot tickets?

vi. How does one appeal the refusal to renew a licence?

8. The Applicant has referred the court to the case of **SLRSA vs. Ali Abess (Civ App 13/2013)** an unreported Court of Appeal decision which deals with the issue of whether the Authority has power to detain clamped vehicles for failure to pay the spot fines associated with the clamping of the vehicle. I have found that this case could help resolve some of the issues in this matter.
9. However, appetizing though the issues raised herein are, I have to decline returning a finding on their merits. This is so because during my preparation for this ruling I came across section 28 (1) of the Road Traffic Act of 2007 which provides an answer to the final question mentioned above as follows:

*28. (1) A person who is aggrieved by the refusal of the Licensing Authority to grant a licence, the suspension, revocation or cancellation of a licence or a notice served in respect thereof or any other matter in respect of a licence may, within 28 days of the notice concerned, appeal to a **Magistrate's court**.*
10. I take the considered view that the questions before me appropriately fall within the ambit of this **section 28 (1) of the Road Traffic Act of 2007** and therefore are within the jurisdiction of the Magistrate Court. There can be no doubt that the applicant "*is a person who is aggrieved*". He is aggrieved about the refusal to renew the vehicle's licence and this clearly, is a matter "*in respect of a licence*" as provided for by that section. When the applicant's employee Mohammed Sillah was told that the vehicle's licence would not be renewed till the unpaid spot fines were attended to the applicant received notice of the respondent's refusal to renew the vehicle's licence.
11. The present application is made pursuant to O 52 of the High Court Rules of 2007 which gives the High Court general powers of review. I find that S. 28 of the Road Traffic Act 2007 is a more specific statutory provision providing for grievances resulting from actions taken by "*the Licensing Authority*" in respect of the granting, refusal, suspension, revocation, cancellation "*or any other matter in respect of a licence*". Clearly and without a doubt S. 28 cited gives **the Magistrate Court** jurisdiction over matters such as this one.
12. The specificity of S. 28 of the Road Traffic Act 2007 to my mind dictates that it should be the provision that governs the issues now before me and that any further step or decision on the matter reached by me will result in a nullity that could be over turned. I

find comfort for this line of reasoning in the case of **Caulker v Kangama** an unreported Supreme Court decision (Civ. Appl No. 2/74 – 1975) in which a judgment was overturned for want of jurisdiction. There, a case dealing with title to land in the provinces had been decided in the High Court and the judgment upheld by the Court of Appeal. On appeal to the Supreme Court it was found that the High Court lacked jurisdiction to hear the matter and the decisions of both the lower courts were reversed.

14. The judgment of Hamilton JSC in **Kenny and Another v Mansaray** (Civ. App. 18/04) [2009] is also helpful. There it was held that by granting extension of time within which to appeal the High Court had

“.....rendered nugatory a mandatory rule of the Court of Appeal Rules 1985..... The Ruling of the High Court dated 26th May, 2007 granting the Respondent/Appellant leave to appeal out of time is declared a nullity as it was given without jurisdiction.”

The High Court had proceeded to hear and grant reliefs which the Court of Appeal rules provide specifically as being the preserve of the Court of Appeal. This court will fall into a similar snare with respect to **section 28 (1) of the Road Traffic Act of 2007** if I were to proceed and rule on the merits of this application.

15. Regrettably neither counsel raised section 28 in his papers nor addressed the court on it in their oral submissions which were heard between 18th April 2016 and 10th May 2016. I am satisfied however that the section does apply to the issues presently before me and that this matter has therefore been brought in the wrong forum and that I am without the necessary jurisdiction to hear it.

In the circumstances I make the following orders:

1. The application is hereby struck off
2. No order as to costs

Reginald Sydney Fynn J A......

