

Court of Appeals of the State of Georgia

ATLANTA,

The Honorable Court of Appeals met pursuant to adjournment.

The following order was passed:

A95A0011. CONTEMPT - SHOW CAUSE.

The appeal of (APPELLANT) having been dismissed without his knowledge or authority in (MONTH and YEAR) by attorney (NAME OF ATTORNEY), and this Court being without jurisdiction to entertain (APPELLANT)'s communications concerning an appeal which was dismissed, this Court by order of (DATE) sua sponte reinstated the appeal and commanded (ATTORNEY) to show cause why he should not be required to represent (APPELLANT) in the appeal according to law including State Bar Standard 22 and DR 2-110.

(ATTORNEY) on (DATE) answered and denied he had represented appellant and admitted he should not have dismissed the appeal, but admitted he had filed papers in the appeal and that he was not diligent in correcting the impression thus given to this Court that he represented appellant. (ATTORNEY) showed to this Court a letter of (DATE) where appellant stated he wanted to appeal his conviction and indicated (ATTORNEY) dismissed the appeal without consulting appellant.

We find that despite being retained for a sum of money to represent appellant after his conviction, (ATTORNEY) dismissed the appeal while claiming he did not represent appellant in his appeal;

Further, that by letter of (DATE), appellant gave (ATTORNEY) knowledge the dismissal of his appeal was without authority;

Further, that (ATTORNEY) knew or should have known that without action being taken to reinstate the appeal which he had improperly dismissed, this Court had no jurisdiction to address (APPELLANT)'s communications concerning a nonexistent appeal;

Further, that (ATTORNEY)'s statement to this Court that appellant, who is incarcerated, suffered no harm by dismissal of his appeal shows unconcern for the rights of a party before this Court, as does (ATTORNEY)'s failure to notify this Court the appeal was dismissed in error and take action to reinstate the appeal;

Further, that (ATTORNEY)'s assertion that appellant should have researched and pursued his own appeal between (MONTH and YEAR) and (MONTH and YEAR) is misleading inasmuch as (ATTORNEY) in (MONTH and YEAR) filed documents as appellant's attorney in the appeal and in (MONTH and YEAR) dismissed the appeal so that no appeal existed;

Further, that (ATTORNEY)'s response to this Court that he "represent[s] any suggestion that [he] did not represent his client to the best of [his] abilities" is unwarranted, no such suggestion having been made by this Court, said remark being inconsistent with (ATTORNEY)'s assertion that he did not represent appellant at all in this appeal, and said remark and others in all the circumstances appearing to be contemptuous of this Court's effort to preserve its jurisdiction and protect the rights of parties on appeal.

It is, therefore, ordered that attorney (ATTORNEY'S NAME) show cause by sworn affidavit filed on or before (DATE) or at hearing on (DATE) at (TIME), why he should not be held in contempt of Court pursuant to Court of Appeals Rule 7. Such response shall be served on appellant and appellant may dispute same and present further facts to this Court concerning this matter, but any response by appellant shall be by sworn affidavit and shall be submitted to this Court and served on (ATTORNEY) before (DATE).

It is further ordered that (ATTORNEY) will not represent appellant in this appeal. The appeal being reinstated, appellant shall have thirty (30) days from the date of this Order to acquire counsel or to inform this Court that appellant will proceed pro se. Appellant or his new counsel shall file his brief and enumeration of errors within sixty (60) days of the date of this Order. Appellee shall then have twenty (20) days after the filing of appellant's brief to file a responsive brief.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Clerk.