

Court of Appeals of the State of Georgia

ATLANTA, NOV 17 2009

The Court of Appeals hereby passes the following order:

A10A0329. SIRDAH d/b/a CARNAVAL BAR AND LOUNGE et al. v. NORTH SPRINGS ASSOCIATES, LLP.

Before this Court is appellee's motion to dismiss the instant appeal. This appeal was docketed in this Court on October 7, 2009. The appellants' brief, including enumerations of error, was due to be filed no later than October 27, 2009. Court of Appeals Rule 23 (a). While appellants did not file their brief and enumeration of errors until November 6, 2009, the late filing does not require dismissal. See OCGA § 5-6-48 (b); *Van Preda Motors v. Nat. Uniform Svc.*, 195 Ga. App. 443, 444 (1) (393 SE2d 728) (1990); *Kirby v. Fed. Implement & Hardware Ins. Co.*, 158 Ga. App. 778, 780 (1) (282 SE2d 139) (1981). Accordingly, appellee's motion is hereby DENIED.

*Court of Appeals of the State of Georgia
Clerk's Office, Atlanta*

NOV 17 2009

*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.*

Willie L. Mantz

, Clerk.

Court of Appeals of the State of Georgia

ATLANTA, July 8, 2010

The Court of Appeals hereby passes the following order:

A10A0779. STATE FARM FIRE & CASUALTY CO. v. BYRD.

This appeal arose pursuant to this Court's grant of an application for interlocutory appeal of the trial court's denial of Appellant's motion to dismiss or for summary judgment. Upon consideration of the entire record in the matter, it appearing that the appeal having been improvidently granted, it is hereby ordered that the appeal is hereby DISMISSED.



Court of Appeals of the State of Georgia
Clerk's Office, Atlanta JUL - 8 2010

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hereto affixed the day and year last above written.*

Will. Z. Mat: [Signature], Clerk.

Holly Sparrow - Dismissals when counsel for criminal case defendant has not filed brief

From: Holly Sparrow
To: CAATTY_GP
Date: 6/29/2012 11:29 AM
Subject: Dismissals when counsel for criminal case defendant has not filed brief
CC: Ranee Zilton

Dear Staff Attorneys:

As you know, when this Court dismisses a criminal case appeal (resulting from a criminal case conviction) in which counsel for the appellant has not filed a brief, the Court directs the order be sent to the appellant and includes language in the order advising the appellant of the option of applying for an out-of-time appeal.

This language is a result of a decision of the Supreme Court of Georgia in Rowland v. State, 264 Ga. 872 and Reese v. State, 216 Ga. App. 773. An excerpt from Rowland is below:

"We conclude that dismissal of the appeal is the appropriate and constitutionally permissible course of action when a represented criminal defendant's appeal has procedural deficiencies that deprive the defendant of the right of appellate review of the judgment of conviction. The order of dismissal, to be sent to the criminal defendant as well as to appellate counsel with direction to send a copy to the defendant, should point out the appellate deficiency and make the defendant and counsel aware of the option of applying for an out-of-time appeal in the court of conviction. "

Recently, the Clerk's office was contacted by an appellant in a 2011 appeal in which the order was issued without this language and was not sent to the appellant. Please make sure that this language is in any such orders you may draft and that the order directs the Clerk to send a copy of the order to the appellant.

Thank you.

Holly

Court of Appeals of the State of Georgia

ATLANTA, April 19, 2011

The Court of Appeals hereby passes the following order:

A11A0751. DARRYL SACAR FINNELLE v. THE STATE.

This case was docketed by this Court on December 14, 2010. On December 29, 2010, appellant requested and was granted a 20 day extension of time for filing appellant's brief and enumerations of error. As of the date of this order, appellant has failed to file said enumerations of error and brief.

Therefore, this appeal is DISMISSED pursuant to Court of Appeals Rules 13 and 23.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, APR 19 2011

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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.*

Hally K. O. Spencer Clerk.

Holly Sparrow - Re: Rowland language

From: Holly Sparrow
To: Laura ROBISON
Subject: Re: Rowland language

Thanks Laura. That is just right. When I get a chance, I will send the language out to all staff attorneys.

>>> Laura ROBISON 7/3/2012 1:38 PM >>>
Hi Holly:

Thanks for your e-mail regarding dismissal orders in criminal cases. We use the language below based upon the *Rowland* opinion. It's not our language originally, but someone came up with it at some point. Just wanted to make sure that it covers the bases you mentioned in your e-mail, and if so, and I thought it might be useful to circulate it to the Staff attorneys, etc.

"Because appellant is represented by counsel, he is hereby informed of the following in accordance with Rowland v. State, 264 Ga. 872 (452 SE2d 756) (1995): This appeal has been dismissed because of your counsel's failure to file a timely appellate brief and enumerations of error. If you still wish to appeal, you may petition the trial court for leave to file an out-of-time appeal. If the trial court enters an order granting your request, you will have 30 days from the filing date of that order to file a notice of appeal referencing your conviction. If the trial court enters an order denying your request, you will have 30 days from the filing date of that order to file a notice of appeal referencing the denial of your request for an out-of-time appeal.

The Clerk of Court is directed to send a copy of this order to appellant as well as to appellant's attorney, and the latter also directed to send a copy to appellant."

Thanks, Laura Robison

**Court of Appeals
of the State of Georgia**

ATLANTA, November 2, 1994

The Honorable Court of Appeals met pursuant to adjournment.

The following order was passed:

A94A2776. WILLIAM THOMAS GRIFFITH, JR. et al v. RICHARD WILLIAM
BROOKS

Upon consideration of appellee's motion to dismiss , it
is ordered that said motion be hereby DENIED.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta NOV - 2 1994

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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.

William R. Martin