

Court of Appeals

Memorandum

To: All Staff Attorneys
From: William L. Martin, III
Subject: Dismissing Appeals as Improvidently Granted
Date: June 11, 2010

*Never
mind*

Recently we issued an opinion with the following language, "Accordingly, the order granting application is vacated and the appeal is dismissed." I know what the Court was trying to do. Often times the Court grants an application based upon the application, but when the entire record comes before the Court, the Court realizes there was no error from the trial court and rather than waste the party's time and labor, the Court finds that the application has been improvidently granted and dismisses the appeal.

I would suggest that we avoid language such as, "the order granting application is vacated" because I am not sure we can really do that. The order granting the application is what got the direct appeal to the Court in the first place. What we are really doing is dismissing the appeal as improvidently granted because at the time the Court reviewed that case the order granting it was appropriate.

If you have any questions or different views in this matter, please contact me.

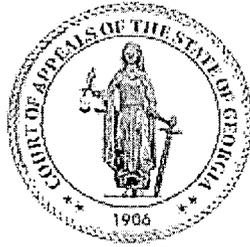
Thank you.

/ld

cc: Chief Judge M. Yvette Miller

Judge John J. Ellington

Central Staff



Court of Appeals

Memorandum

To: All Staff Attorneys
From: William L. Martin, III
Subject: Dismissing Appeals as Improvidently Granted
Date: June 11, 2010

Recently we issued an opinion with the following language, “Accordingly, the order granting application is vacated and the appeal is dismissed.” I know what the Court was trying to do. Often times the Court grants an application based upon the application response, but when the entire record comes before the Court, the Court realizes there was no error from the trial court and rather than waste the party’s time ^{and} labors, the Court finds that the application has been improvidently granted and dismisses the appeal.

I would suggest that we avoid language such as, “the order granting application is vacated” because I am not sure we can really do that. The order granting the application is what got the direct appeal to the Court ^{in the first place.} ~~anyway.~~ What we are really doing is dismissing the appeal as improvidently granted because at the time the Court reviewed that case, the order granting it was appropriate.

If you have any questions or different views in this matter, please contact me.

Thank you.

/ld

cc: Chief Judge M. Yvette Miller

Judge John J. Ellington

Central Staff



Court of Appeals

Memorandum

To: Rachel Derrico
From: William L. Martin, III *with*
Subject: A10A1562. In the Interest of: M.M., a Child
Date: May 17, 2010

Please review the attached remand order for the above appeal. If it meets with your approval, please let me know and I shall have Lola print out a copy with a voting macro. Please feel free to make any changes you deem appropriate.

Thank you.

/ld
Attachments

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

A10A1562. IN THE INTEREST OF: M.M., a CHILD

The above appeal was docketed in this Court on April 9, 2010 from the Juvenile Court of Carroll County. Prior to docketing this appeal, the Court of Appeals of Georgia was unaware that the record contained two Notices of Appeal. This Court cannot docket a record that contains more than one Notice of Appeal.

Upon consideration of this appeal and the record as presented from the trial court, this appeal is hereby REMANDED to the Juvenile Court of Carroll County. The clerk of that Court is directed to remove the second Notice of Appeal from the record. The clerk may then return the record with the first Notice of Appeal to this Court for docketing. If the second Notice of Appeal should be returned for review by this Court, then the clerk may send to this Court that Notice of Appeal along with an Index and the clerk's certification.

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.

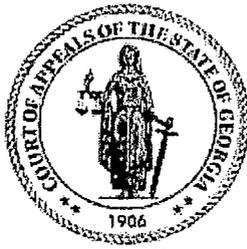
per Sharon -
atty did not
want to proceed
w/ appeal dated
11/2/09 - She will
call and get something
in writing from him -

give to
Rachel

4/20 -
per clerk
ATT/15 going to
file a withdrawal
of 1st NOA

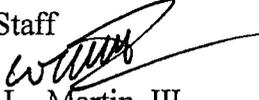
4/19/10
A10A1562
2/16/10
NOA → not
11/2/09 & deleted
09 DE00129

4/14/10
per Sharon -
she has not yet
heard back from
atty -
She will call back
by Friday -



Court of Appeals

Memorandum

To: Central Staff
From: 
William L. Martin, III
Subject: Judicial Emergency Act of 2004 (OCGA §38-3-60)
Date: March 8, 2010

Attached please find an order I received from Judge Jeffrey S. Bagley, Chief Judge, Bell-Forsyth Judicial Circuit. As you can see, Chief Judge Bagley has extended or tolled the filing deadlines pursuant to OCGA §38-3-62 from 2:00 p.m., Tuesday, March 2, 2010 until 10:00 a.m., Wednesday, March 3, 2010.

I leave it to you as to the effect of his order should this Court receive any filings in which that time becomes critical.

If you have any questions or if there is anything I can do to assist you with this issue, please do not hesitate to contact me.

Thank you.

/ld

Attachment

cc: Chief Judge M. Yvette Miller w/attachments
Judge John J. Ellington w/attachments
Patty Bender w/attachments
Keri Avera w/attachments
Margo Bailey w/attachments

IN THE SUPERIOR COURT OF FORSYTH COUNTY

STATE OF GEORGIA

FORSYTH COUNTY GEORGIA
FILED IN THIS OFFICE

MAR 02 2010

L. B. Olla
CLERK SUPERIOR COURT

ADMINISTRATIVE ORDER *
Re: INCLEMENT WEATHER *
COURTHOUSE CLOSING *

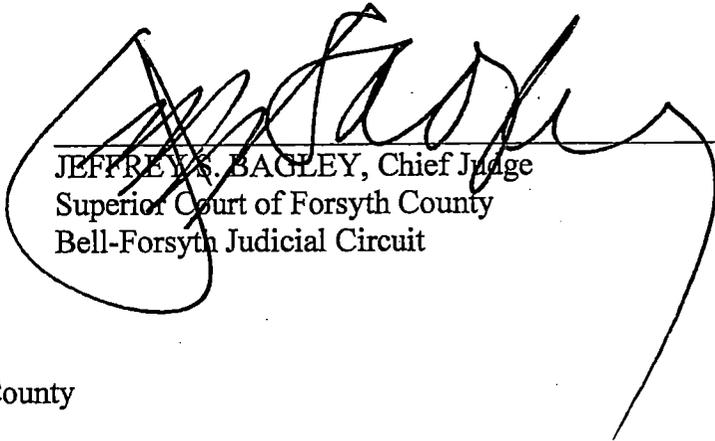
PURSUANT TO JUDICIAL EMERGENCY ACT OF 2004 O.C.G.A. § 38-3-60

Due to extreme winter weather conditions, and based upon hazardous road conditions, a Judicial Emergency is hereby declared pursuant to O.C.G.A. § 38-3-60. This Order shall affect the operations of all courts within the Bell-Forsyth Judicial Circuit and shall be of the following duration:

The County Courthouse and all annexes to the County Courthouse shall be closed from 2:00 p.m., Tuesday, March 2, 2010 until 10:00 a.m., Wednesday, March 3, 2010.

Pursuant to O.C.G.A. § 38-3-62 all filing deadlines are extended or tolled during the duration of this Judicial Emergency.

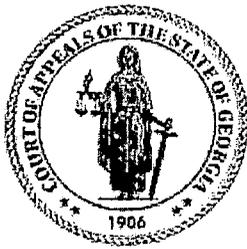
SO ORDERED this 2nd day of March, 2010 at 2 o'clock.
p.m.


JEFFREY S. BAGLEY, Chief Judge
Superior Court of Forsyth County
Bell-Forsyth Judicial Circuit

Distribution:

- Original: Clerk of Court, Forsyth County
- cc: Chief Justice, Supreme Court of Georgia
Clerks - Court of Appeals, Supreme Court
Judges and Clerks - Bell-Forsyth Judicial Circuit

RECEIVED IN OFFICE
2010 MAR -4 PM 4:33
William K. MacLean
CLERK / COURT ADMINISTRATOR
COURT OF APPEALS OF GA.



COPY

Court of Appeals

Memorandum

To: Central Staff
From:  William L. Martin, III
Subject: Judicial Emergency Act of 2004 (OCGA §38-3-60)
Date: March 8, 2010

Attached please find an order I received from Judge Jeffrey S. Bagley, Chief Judge, Bell-Forsyth Judicial Circuit. As you can see, Chief Judge Bagley has extended or tolled the filing deadlines pursuant to OCGA §38-3-62 from 2:00 p.m., Tuesday, March 2, 2010 until 10:00 a.m., Wednesday, March 3, 2010.

I leave it to you as to the effect of his order should this Court receive any filings in which that time becomes critical.

If you have any questions or if there is anything I can do to assist you with this issue, please do not hesitate to contact me.

Thank you.

/ld

Attachment

cc: Chief Judge M. Yvette Miller w/attachments
Judge John J. Ellington w/attachments
Patty Bender w/attachments
Keri Avera w/attachments
Margo Bailey w/attachments

IN THE SUPERIOR COURT OF FORSYTH COUNTY

STATE OF GEORGIA

FORSYTH COUNTY GEORGIA
FILED IN THIS OFFICE

MAR 02 2010

L. B. Oller
CLERK SUPERIOR COURT

ADMINISTRATIVE ORDER
Re: INCLEMENT WEATHER
COURTHOUSE CLOSING

*
*
*

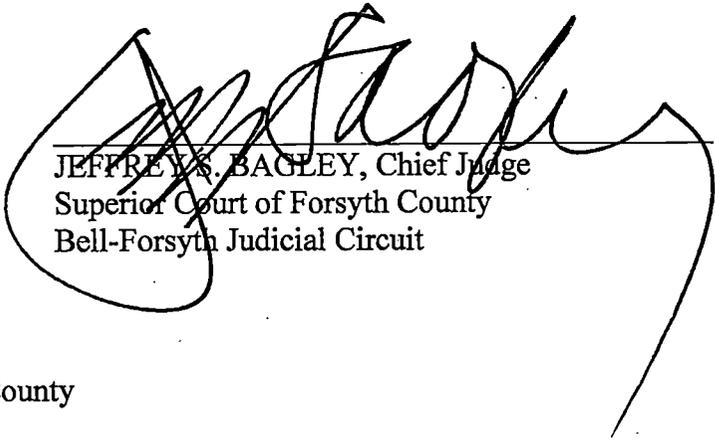
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The County Courthouse and all annexes to the County Courthouse shall be closed from 2:00 p.m., Tuesday, March 2, 2010 until 10:00 a.m., Wednesday, March 3, 2010.

Pursuant to O.C.G.A. § 38-3-62 all filing deadlines are extended or tolled during the duration of this Judicial Emergency.

SO ORDERED this 2nd day of March, 2010 at 2 o'clock.
p.m.


JEFFREY S. BAGLEY, Chief Judge
Superior Court of Forsyth County
Bell-Forsyth Judicial Circuit

Distribution:

- Original: Clerk of Court, Forsyth County
- cc: Chief Justice, Supreme Court of Georgia
Clerks - Court of Appeals, Supreme Court
Judges and Clerks - Bell-Forsyth Judicial Circuit

RECEIVED IN OFFICE
2010 MAR -4 PM 4:33
William R. Meade, Jr.
CLERK/COURT ADMINISTRATOR
COURT OF APPEALS OF GA.



Court of Appeals

Memorandum

To: Jule Felton
William L. Martin, III
From: William L. Martin, III
Subject: A09A2022. TKW Partners, LLC, et al. v. Archer Capital Fund, LP
Date: March 2, 2010

I received a call from an attorney, not associated with this case, but one who does practice in the area of property tax law. He said there was an error in footnote 14. Specifically, he said a reference to a code section with a subsection of “vi” should be “iv”.

He also indicated that “iv” has become a new code section and he was concerned about the opinions interpretation of that code section.

Thank you.

/ld



Court of Appeals

Memorandum

To: Rachel Derrico
From: *William L. Martin, III*
Subject: A10A0663. Nick Clausell v. The State
Date: November 30, 2009

Attached please find a proposed order I have drafted for your review and approval. Please feel free to make any changes to this order you deem appropriate.

If you would like to discuss the matter with me, please do not hesitate to see me or give me a call.

Thank you.

/ld
Attachment

Court of Appeals of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

A10A0663. NICK CLAUSELL v. THE STATE

The above appeal was docketed in this Court on November 19, 2009 pursuant to a Notice of Appeal filed with the clerk of the trial court on August 31, 2009. On the fourth page of the Index submitted by the clerk of the trial court, at the top line, and obscured by the fold, the Index contained a reference to a previous Notice of Appeal which was filed in the trial court on October 30, 2008, located at page 581 in the record.

This Court cannot accept a record which contains two Notices of Appeal. Therefore, this appeal is remanded to the clerk of the trial court with directions to the clerk of the trial court remove from the record the Notice of Appeal dated October 30, 2008. The clerk of the trial court is directed to return the record to this Court containing the Notice of Appeal dated August 31, 2009. If appellant wishes the Notice of Appeal dated October 30, 2008, to be returned to this Court, the clerk of the trial court is directed to attach that clerk's certificate to that Notice of Appeal and return it along with the record in the main appeal. It is not necessary to reduplicate the record.

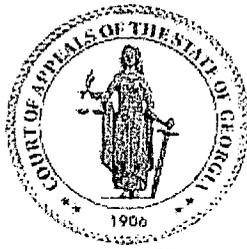
Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

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

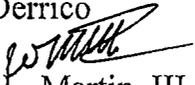
Witness my signature and the seal of said court
hereto affixed the day and year last above written.

Clerk.



Court of Appeals

Memorandum

To: Rachel Derrico
From:  William L. Martin, III
Subject: A10A0663. Nick Clausell v. The State
Date: December 4, 2009

Please review the corrected order. Should it meet with your approval, you may wish to circulate it to the judges with your recommendation.

If I can be of further assistance in this matter, please let me know.

Thank you.

/ld

Attachments

Court of Appeals of the State of Georgia

ATLANTA,

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A10A0663. NICK CLAUSELL v. THE STATE

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Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

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Witness my signature and the seal of said court
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Clerk.

PROPOSED ORDER (A10A0663 with Proposed Macro.wpd) December 4, 2009	
AGREE	DISAGREE

Court of Appeals of the State of Georgia

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A10A0663. NICK CLAUSELL v. THE STATE

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Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

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Clerk.