

DISTRICT COURT OF APPEAL OF FLORIDA, FIRST DISTRICT

Gloria Carr v. Nathan Byers

Gloria Carr v. Nathan Byers, 578 So. 2d 347 (Fla. Dist. Ct. App. 1991) (Fla. 1st DCA 1991) · No. 90-1866

SUMMARY

The Florida First District Court of Appeal held that a successor judge may not enter a final judgment based on evidence heard by a predecessor judge when the predecessor had not rendered the judgment by signing, filing, or publicly announcing it. The court reversed and remanded for a new trial, ruling that a proposed written judgment that was never signed or filed is not a rendered judgment and cannot be entered by a successor.

CASE DETAILS

COURT	District Court of Appeal of Florida, First District
WRITING FOR THE COURT	Nimmons; Barfield; Allen
JURISDICTION	Florida
DOCKET	90-1866
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a final judgment entered by a successor trial judge.
PRECEDENTIAL VALUE	binding
PARTIES	Gloria Carr v. Nathan Byers

TOPICS

- civil procedure
- appellate procedure

PRACTICE AREAS

- Appellate Procedure
- Civil Procedure

QUESTIONS PRESENTED

- Whether a successor judge may enter a final judgment based on evidence heard by a predecessor judge when the predecessor judge had not rendered, signed, or filed the judgment before leaving the bench.

HOLDINGS

1. A successor judge may not enter an order or judgment based upon evidence heard by the predecessor judge; until rendered, the decision of a trial judge is not a judgment. A proposed final judgment reduced to writing but not signed, recorded, filed, or publicly announced by the predecessor judge cannot be entered by a successor judge without hearing the evidence.

KEY QUOTATIONS

“While there are no Florida cases which involve these exact circumstances, we hold that until rendered, the decision of a trial judge is not a judgment, and the above cited rule applies.” (348)

“A “proposed” final judgment was reduced to writing by the predecessor judge, but it was not signed by him, recorded or filed, or publicly announced. The successor judge therefore erred in signing and filing the proposed final judgment without hearing the evidence.” (348)

“[T]he existing law of Florida is that a successor judge may not enter an order or judgment based upon evidence heard by the predecessor.” (347 fn1)

FACTUAL BACKGROUND

After a bench trial, the trial judge asked appellee's counsel to prepare a proposed final judgment, which the judge edited and dictated to his secretary. The judge died in a plane crash before signing, recording, filing, or publicly announcing the judgment.

PROCEDURAL HISTORY

After a bench trial, the predecessor trial judge indicated he would submit a proposed judgment for the parties' review but instead requested appellee's counsel submit a proposed judgment. The judge edited that proposal but died before signing or filing it. A successor judge, after hearing argument, signed and filed the proposed final judgment. Appellant appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reversed and remanded for a new trial.

CASES CITED

- Olympic Manufacturing Co. v. Shepherd, 190 So. 2d 588 (Fla. 3d DCA 1966)
- Anders v. Anders, 376 So. 2d 439 (Fla. 1st DCA 1979)
- Beattie v. Beattie, 536 So. 2d 1078 (Fla. 4th DCA 1988)
- Silvern v. Silvern, 252 So. 2d 865 (Fla. 3d DCA 1971)
- Bradford v. Foundation & Marine Construction Co., 182 So. 2d 447 (Fla. 2d DCA 1966)
- Foundation & Marine Construction Co. v. Bradford, 188 So. 2d 821 (Fla. 1966)

- Wainwright v. P.H. & F.M. Roots Co., 176 Ind. 682, 97 N.E. 8 (1912)
- State ex rel. Wilson v. Kay, 164 Wash. 685, 4 P.2d 498 (1931)
- State v. Dowdell, 55 Md. App. 512, 464 A.2d 1089 (1983)
- Dowdell v. State, 298 Md. 310, 469 A.2d 864 (1984)
- Labonte v. Lacasse, 78 N.H. 489, 102 A. 540 (1917)

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