

COURT OF APPEALS FOR THE FIFTH DISTRICT OF TEXAS AT DALLAS

Nicholas Ryan Nadeau v. The State of Texas

No. 05-19-01137-CR · No. No. 05-19-01137-CR · Decided June 30, 2021

SUMMARY

The Fifth District Court of Appeals of Texas granted attorney Matthew Maddox's motion to withdraw as counsel for appellant Nicholas Ryan Nadeau. The court ordered the trial court to appoint new appellate counsel, transmit a supplemental clerk's record, and abated the appeal pending compliance.

CASE DETAILS

COURT	Court of Appeals for the Fifth District of Texas at Dallas
WRITING FOR THE COURT	Cory L. Carlyle; David J. Schenck; Amanda L. Reichel
JURISDICTION	Texas
DECIDED	June 30, 2021
DOCKET	No. 05-19-01137-CR
DISPOSITION	other
PROCEDURAL POSTURE	On appeal from the 296th Judicial District Court of Collin County, Texas, the court addressed appointed appellate counsel's motion to withdraw and ordered the trial court to appoint replacement counsel.
PRECEDENTIAL VALUE	Published
PARTIES	Nicholas Ryan Nadeau v. The State of Texas

TOPICS

[appellate procedure](#) [criminal procedure](#) [right to counsel](#)

PRACTICE AREAS

[Criminal procedure](#) [Appellate procedure](#) [Right to counsel](#)

QUESTIONS PRESENTED

1. Whether appointed appellate counsel should be permitted to withdraw and replacement counsel appointed.
2. What procedural measures were necessary to protect the appellant's representation and permit further consideration of the appeal.

HOLDINGS

1. The court granted Matthew Maddox's motion to withdraw as counsel for Nadeau and directed the clerk to remove him as counsel of record.
2. The trial court was ordered to appoint new counsel, transmit a supplemental clerk's record containing the appointment order within fifteen days, and have new appellate counsel investigate the record and file a brief within thirty days of appointment.
3. The appeal was abated pending receipt of the order appointing counsel or further action by the appellate court, and would be reinstated upon receipt of that order or when the court deemed reinstatement appropriate.

KEY QUOTATIONS

"We ABATE this appeal to allow the trial court to comply with this order. The appeal will be reinstated when the order appointing counsel is received or the Court deems it appropriate to do so." (–2–)

FACTUAL BACKGROUND

The appeal arose from a criminal case in the 296th Judicial District Court of Collin County. Appointed appellate counsel Matthew Maddox sought permission to withdraw. The appellate court determined that new counsel should investigate the record and brief an issue identified in the court's related opinion, along with any other arguably meritorious grounds.

PROCEDURAL HISTORY

Nadeau's criminal appeal was pending in the Fifth District Court of Appeals. Attorney Matthew Maddox moved to withdraw as appellate counsel on May 22, 2020. Based on the court's opinion issued the same date as this order, the court granted withdrawal, directed appointment of new appellate counsel, required a supplemental clerk's record, and abated the appeal pending compliance.

DISPOSITION

other

REMAND INSTRUCTIONS

The trial court must appoint new counsel for Nadeau in the appeal and transmit a supplemental clerk's record containing the appointment order within fifteen days. New counsel must investigate the record and file a brief addressing the issue noted in the court's opinion and any other grounds that might arguably support the appeal within thirty days after appointment.

OPINION

Nicholas Ryan Nadeau v. the State of Texas

PER CURIAM.

Order issued June 30, 2021 In the Court of Appeals Fifth District of Texas at Dallas No. 05-19-

01137-CR NICHOLAS RYAN NADEAU, Appellant V. THE STATE OF TEXAS, Appellee On Appeal from the 296th Judicial District Court Collin County, Texas Trial Court Cause No. 296-83228-2018

ORDER

Before Justices Schenck, Reichek, and Carlyle Before the Court is attorney Matthew Maddox's May 22, 2020 motion to withdraw as counsel for appellant Nicholas Ryan Nadeau. Based on the Court's opinion of this date, we GRANT the motion and DIRECT the Clerk of the Court to remove Matthew Maddox as counsel of record for appellant. We ORDER the trial court to appoint new counsel to represent appellant in this appeal and to transmit a supplemental clerk's record containing the order appointing new counsel to this Court within FIFTEEN DAYS of the date of this order. Once appointed, appellate counsel shall investigate the record and file a brief addressing the issue noted in the opinion in this case, as well as any other grounds that might arguably support the appeal, within THIRTY days of the appointment. We DIRECT the Clerk of the Court to send copies of this order to: the Honorable John R. Roach, Jr., Presiding Judge, 296th District Court of Collin County; Matthew Maddox; the Collin County District Attorney's Office, Appellate Division; and appellant Nicholas Ryan Nadeau, TDCJ# 02283434, Cole Unit, 3801 Silo Road, Bonham, Texas 75418. We ABATE this appeal to allow the trial court to comply with this order. The appeal will be reinstated when the order appointing counsel is received or the Court deems it appropriate to do so.

/s/ CORY L. CARLYLE

JUSTICE

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