

FIRST DISTRICT COURT OF APPEAL OF FLORIDA

Wells v. Wells

Wells v. Wells · No. 1D2025-2777 · Decided June 24, 2026

SUMMARY

The Florida First District Court of Appeal affirmed a supplemental judgment modifying timesharing and parental responsibility because the appellant failed to provide a trial transcript or timely create an approved statement of the evidence. The court held that Florida Rule of Appellate Procedure 9.200(f) (2) does not permit creation of a previously nonexistent substitute transcript and denied the appellant's late motion under rule 9.200(b)(5).

CASE DETAILS

COURT	First District Court of Appeal of Florida
WRITING FOR THE COURT	Treadwell, J.; Roberts, J.; Winokur, J.
JURISDICTION	Florida First District Court of Appeal
DECIDED	June 24, 2026
DOCKET	1D2025-2777
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appellant appealed a supplemental judgment modifying timesharing and parental responsibility. After the appellate court ordered him to provide an omitted transcript, he moved for an extension of time to prepare a statement of the evidence or proceedings under Florida Rule of Appellate Procedure 9.200(b)(5). The court denied the motion and affirmed the judgment because the record lacked a transcript.
STANDARD OF REVIEW	The opinion does not state a separate standard of review for the underlying timesharing and parental-responsibility judgment. The appellate court applied the rule that an appellant bears the consequences of an inadequate record when review of the asserted errors requires a transcript.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Derrick Wells v. Angela Wells

TOPICS

appellate procedure

family law procedure

child custody

preservation of error

PRACTICE AREAS

Appellate procedure

Family law

QUESTIONS PRESENTED

1. Whether Florida Rule of Appellate Procedure 9.200(f)(2) entitled Appellant to supplement the record by creating a substitute for a nonexistent trial transcript.
2. Whether the appellate court was required to allow Appellant, at a late stage of the appeal, to prepare and obtain approval of a statement of the evidence or proceedings under rule 9.200(b)(5).
3. Whether the judgment should be affirmed under Appellate because the absence of a transcript prevented review of Appellant's challenges.

HOLDINGS

1. Florida Rule of Appellate Procedure 9.200(f)(2), which permits an appellant to supplement an incomplete record, applies to portions omitted from an otherwise existing record and does not entitle an appellant to create a substitute for a transcript that was never made or is unavailable.
2. An appellate court is not required to afford an appellant a second opportunity to create and approve a statement of the evidence or proceedings, particularly when the appellant knew of the record deficiency and waited until a late stage of the appeal to act.
3. The supplemental judgment is affirmed because the absence of a transcript or suitable substitute prevents meaningful review of Appellant's challenges to the trial court's decision and evidentiary basis.

KEY QUOTATIONS

“Rule 9.200(f)(2) does not entitle the appellant to an opportunity to supplement the record by creating a substitute for the transcript.” (4)

“An appellate court has no obligation to afford the appellant a second opportunity to create an entire transcript because he ignored the rule when the record on appeal was being prepared.” (5)

FACTUAL BACKGROUND

The trial court entered a supplemental judgment modifying Derrick Wells's timesharing and parental responsibility. Derrick challenged the decision and the evidence relied upon, but no trial transcript was included in the appellate record. He knew of the missing transcript for more than six months, yet did not seek to prepare a statement of the evidence until after briefing had concluded and the court warned that the judgment could be affirmed for failure to provide a record.

PROCEDURAL HISTORY

The Circuit Court for Alachua County entered a supplemental judgment modifying Appellant's timesharing and parental responsibility. On appeal, Appellant challenged the judgment and the evidence supporting it, but the

appellate record contained no trial transcript or suitable substitute. The First District gave Appellant an opportunity under rule 9.200(f)(2) to provide the omitted transcript. After Appellant conceded that no transcript existed and sought additional time to create a statement of the proceedings, the court denied the motion as untimely and affirmed under Applegate.

DISPOSITION

affirmed

CASES CITED

- Applegate v. Barnett Bank of Tallahassee, 377 So. 2d 1150, 1152 (Fla. 1979)
- Thomas v. Thomas, 498 So. 2d 668, 669-70 (Fla. 5th DCA 1986)
- Chisholm v. Chisholm, 538 So. 2d 961, 962-63 (Fla. 3d DCA 1989)
- Miranda v. RBS Citizens, 253 So. 3d 746, 748-49 (Fla. 3d DCA 2018)
- Terry v. State, 263 So. 3d 799, 805-06 (Fla. 4th DCA 2019)
- Craig v. State, 510 So. 2d 857, 860-61 (Fla. 1987)
- Bass v. State, 304 So. 3d 786, 790-91 (Fla. 1st DCA 2018)
- Kuenstler v. Andreasen, 386 So. 2d 896, 896-97 (Fla. 1st DCA 1980)
- Bay Med. Ctr. v. Haynes, 667 So. 2d 216, 217 (Fla. 1st DCA 1995)
- Newton v. Lionel Playworld, 557 So. 2d 247 (Fla. 1st DCA 1990)
- Montgomery Truck Lines v. Southworth, 550 So. 2d 567, 567 (Fla. 1st DCA 1989)
- State, Dep't of Health & Rehab. Servs. v. Christman, 635 So. 2d 94, 95 (Fla. 1st DCA 1994)
- E.H. v. Dep't of Health & Rehab. Servs., 571 So. 2d 50, 50-51 (Fla. 1st DCA 1990)
- Morgan v. S. Atl. Prod. Credit Ass'n, 528 So. 2d 491, 491-92 (Fla. 1st DCA 1988)
- Snowden v. Wells Fargo Bank, 172 So. 3d 506, 508 (Fla. 1st DCA 2015)
- Saunders Contracting v. Clemens, 492 So. 2d 1379, 1379-80 & n.1 (Fla. 1st DCA 1986)
- Se. Bank, N.A. v. David A. Steves, P.A., 552 So. 2d 292, 293 (Fla. 2d DCA 1989)
- E.M. v. Dep't of Child. & Fams., 327 So. 3d 960, 961 n.* (Fla. 1st DCA 2021)
- Fay v. Craig, 99 So. 3d 981, 982 (Fla. 5th DCA 2012)
- Cirillo v. Davis, 732 So. 2d 387, 389 (Fla. 4th DCA 1999)
- Ours v. Ours, 515 So. 2d 281, 282 n.2 (Fla. 1st DCA 1987)
- Southside Church of Christ of Jacksonville, Inc. v. Walker, 286 So. 3d 951 (Fla. 1st DCA 2019)
- Walt v. Walt, 596 So. 2d 761, 762 (Fla. 1st DCA 1992)
- Starks v. Starks, 423 So. 2d 452, 453 (Fla. 1st DCA 1982)
- Jones v. First Fed. Sav. & Loan Ass'n of Perry, 503 So. 2d 414, 414 (Fla. 1st DCA 1987)