

COURT OF APPEALS OF THE STATE OF GEORGIA

McDuffie v. The State

A18A1908 · No. A18A1908 · Decided July 19, 2018

SUMMARY

The Georgia Court of Appeals dismissed Robert McDuffie's appeal because he failed to file a brief and enumeration of errors within the time required by Court of Appeals Rule 23(a). The order explains that, because McDuffie was represented by counsel, he may seek leave from the trial court to pursue an out-of-time appeal.

CASE DETAILS

COURT	Court of Appeals of the State of Georgia
JURISDICTION	Georgia
DECIDED	July 19, 2018
DOCKET	A18A1908
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appellant's appeal was dismissed after he failed to file a brief and enumeration of errors within the time required by the Court of Appeals rules.
PRECEDENTIAL VALUE	Published court order; precedential scope not otherwise specified in the source.
PARTIES	McDuffie v. The State

TOPICS

[appellate procedure](#) [criminal procedure](#) [post-conviction relief](#)

PRACTICE AREAS

[appellate procedure](#) [criminal procedure](#)

QUESTIONS PRESENTED

1. Whether an appeal should be dismissed as abandoned when the appellant fails to file a brief and enumeration of errors within the period required by Court of Appeals Rule 23(a).

HOLDINGS

1. An appellant's failure to file a brief and enumeration of errors within the 20-day period required by Court of Appeals Rule 23(a) constitutes abandonment of the appeal and warrants dismissal.

KEY QUOTATIONS

“As Appellant has abandoned the appeal, the appeal is hereby DISMISSED.”

FACTUAL BACKGROUND

The appeal was docketed, and appellant was notified that a brief and enumeration of errors were required within 20 days. Appellant did not timely file those materials. Because appellant was represented by counsel, the court advised him that he might seek leave from the trial court to file an out-of-time appeal.

PROCEDURAL HISTORY

After the appeal was docketed and appellant was notified of the filing requirements, appellant failed to file a brief and enumeration of errors within 20 days. The Court of Appeals treated the appeal as abandoned and dismissed it, while informing represented appellant of the potential procedure for seeking an out-of-time appeal in the trial court.

DISPOSITION

dismissed

CASES CITED

- Rowland v. State, 264 Ga. 872, 875-76 (2), 452 S.E.2d 756 (1995)