

SUPREME COURT OF ARKANSAS

Flannery v. Arkansas Department of Health & Human Services

368 Ark. 31 (2006) (Ark. 2006) · No. No. 06-1081 · Decided November 9, 2006

SUMMARY

The Supreme Court of Arkansas granted Kelly Flannery’s motion for a belated appeal from an order terminating his parental rights. The court held that counsel’s failure to notify Flannery of his right to appeal constituted good reason for permitting the late appeal and set a deadline for filing the appellate record.

CASE DETAILS

COURT	Supreme Court of Arkansas
JURISDICTION	Arkansas
DECIDED	November 9, 2006
DOCKET	No. 06-1081
DISPOSITION	other
PROCEDURAL POSTURE	Appellant sought leave to file a belated appeal from an order terminating his parental rights. After remand for factual findings concerning notice, the Supreme Court of Arkansas granted the motion.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court per curiam opinion
PARTIES	Kelly Flannery v. Arkansas Department of Health and Human Services

TOPICS

- appellate procedure
- family law procedure
- termination of parental rights
- parental rights

PRACTICE AREAS

- family law
- appellate procedure
- parental rights

QUESTIONS PRESENTED

- Whether the appellant had good reason for failing to timely perfect an appeal from an order terminating his parental rights.
- Whether the absence of notice of the right to appeal justified granting a motion for belated appeal.

HOLDINGS

1. A trial court's finding that counsel failed to inform a party of the right to appeal an order terminating parental rights constitutes good reason to grant a motion for belated appeal.

KEY QUOTATIONS

“Where an appeal is not timely perfected, either the party or attorney filing the appeal is at fault, or there is good reason that the appeal was not timely perfected.” (620)

FACTUAL BACKGROUND

The circuit court terminated Flannery's parental rights. Although Flannery was notified by letter of the termination order, the circuit court found that he was not informed of his right to appeal. The order was filed on March 28, 2006, and mailed to Flannery by counsel on June 26, 2006.

PROCEDURAL HISTORY

Flannery moved for permission to pursue a belated appeal from the termination-of-parental-rights order. The Supreme Court previously remanded the matter to the circuit court to determine when Flannery received notice of the termination order and whether he was informed of his right to appeal. The circuit court found that Flannery was notified of the order but was not notified of his right to appeal, and the Supreme Court then granted the belated appeal.

DISPOSITION

other

REMAND INSTRUCTIONS

Flannery was permitted to file the record with the clerk by January 18, 2007; the clerk was directed to set a briefing schedule.

CASES CITED

- Flannery v. Arkansas Department of Health & Human Services, 367 Ark. 473, 241 S.W.3d 251 (2006) (per curiam)
- McDonald v. State, 356 Ark. 106, 146 S.W.3d 883 (2004)
- Tyler v. Arkansas Department of Human Services, 366 Ark. 413, 235 S.W.3d 901 (2006) (per curiam)