

SUPREME COURT OF ARKANSAS

S.F. and D.F. v. Arkansas Department of Health & Human Services

370 Ark. 475 (2007) (Ark. 2007) · No. No. 07-735 · Decided September 6, 2007

SUMMARY

The Supreme Court of Arkansas granted S.F. and D.F.'s motion for a belated appeal after their notice of appeal was not signed as required by Arkansas Supreme Court Rule 6-9(b)(2)(D). The court attributed the error to counsel, denied the motion to dismiss, granted anonymity protections, and forwarded the opinion to the Committee on Professional Conduct.

CASE DETAILS

COURT	Supreme Court of Arkansas
JURISDICTION	Arkansas
DECIDED	September 6, 2007
DOCKET	No. 07-735
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Appellants sought relief after the clerk refused to accept their appellate record because their notice of appeal did not comply with Arkansas Supreme Court Rule 6-9(b)(2)(D). The court treated the motion for rule on clerk as a motion for belated appeal.
STANDARD OF REVIEW	The court examined the motion, affidavits, record, and notice of appeal to determine whether relief from failure to perfect the appeal was proper based on attorney error or good reason.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court per curiam opinion
PARTIES	S.F., D.F. v. Arkansas Department of Health & Human Services

TOPICS

- appellate procedure
- family law procedure
- parental rights
- standard of review

PRACTICE AREAS

- appellate procedure
- family law
- parental rights

QUESTIONS PRESENTED

1. Whether appellants were entitled to a belated appeal when their notice of appeal was deficient because neither appellant signed it as required by Arkansas Supreme Court Rule 6-9(b)(2)(D).
2. Whether the circuit court's adjudication order was an appealable order under Arkansas Supreme Court Rule 6-9(a)(1)(A).

HOLDINGS

1. When the record and motion establish that an attorney's error caused the failure to perfect an appeal, and the attorney admits the error, the court may grant relief through a belated appeal. Because neither appellant signed the notice of appeal as required by Rule 6-9(b)(2)(D), the court granted the motion for belated appeal.
2. An adjudication order is an appealable order under Arkansas Supreme Court Rule 6-9(a)(1)(A).

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." (464)

"The notice of appeal and designation of the record shall be signed by the appellant, if an adult, and appellant's counsel." (464)

FACTUAL BACKGROUND

On May 22, 2007, the circuit court adjudicated G.A., the appellants' adopted child, dependent-neglected. The appellants' attorney filed a notice of appeal on their behalf, but neither appellant signed the notice. The attorney admitted that the failure to obtain the appellants' signatures was his error.

PROCEDURAL HISTORY

The circuit court entered an order adjudicating the appellants' adopted child dependent-neglected on May 22, 2007. Appellants filed a notice of appeal on June 5, 2007, but neither appellant signed it. When the clerk refused the tendered record, appellants moved for a rule on clerk and admitted that their attorney was at fault. The Supreme Court of Arkansas granted a belated appeal, denied the motion to dismiss, and granted anonymity.

DISPOSITION

writ_granted

CASES CITED

- McDonald v. State, 356 Ark. 106, 146 S.W.3d 883 (2004)
- Flannery v. Arkansas Department of Health & Human Services, 368 Ark. 31, 242 S.W.3d 619 (2006) (per curiam)

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