

DISTRICT OF COLUMBIA COURT OF APPEALS

Ventura v. McDonalds Welburn Management

154 A.3d 103 (D.C. 2017) · Decided January 13, 2017

SUMMARY

The District of Columbia Court of Appeals reviewed the denial of Jimmy Ventura’s motion for an extension of time to file a notice of appeal. The court held that the record established excusable neglect, treated the notice of appeal as timely, reversed the trial court’s order, and directed the clerk to issue a briefing order.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	McLeese, Associate Judge; Beckwith; McLeese; Nebeker
JURISDICTION	District of Columbia
DECIDED	January 13, 2017
DISPOSITION	reversed
PROCEDURAL POSTURE	Appellant appealed the trial court's denial of his motion for an extension of time to file a notice of appeal.
STANDARD OF REVIEW	Abuse of discretion. The appellate court examines whether the trial court made an informed choice based on and drawn from a firm factual foundation.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Jimmy Ventura v. McDonalds Welburn Management

TOPICS

appellate procedure

appellate jurisdiction

standard of review

civil procedure

PRACTICE AREAS

Appellate procedure

Civil procedure

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion in denying Ventura's motion for an extension of time to file a notice of appeal based on excusable neglect.

2. Whether D.C. App. R. 4(a)(5) requires a motion for an extension of time to be filed within sixty days of judgment.
3. Whether the appellate court could treat Ventura's notice of appeal as timely after determining that the record established excusable neglect.

HOLDINGS

1. D.C. App. R. 4(a)(5) does not impose a sixty-day deadline for filing the motion itself; it requires that the notice of appeal be filed no more than thirty days out of time.
2. The record established excusable neglect because Ventura made timely efforts to file the notice of appeal and the filing problems were not shown to be his fault; the trial court therefore abused its discretion in denying the extension.
3. After determining that excusable neglect was established, the court treated Ventura's August 21, 2014 notice of appeal as timely and directed that the appeal proceed on the merits.

KEY QUOTATIONS

“In fact, the rules do not state a deadline for filing a motion for extension of time, instead requiring only that the notice of appeal have been filed no more than thirty days out of time.” (105)

“Under the circumstances, we accept as uncontested Mr. Ventura’s persuasive contention that the current record establishes excusable neglect.” (106)

FACTUAL BACKGROUND

Ventura attempted to electronically file a notice of appeal before the deadline, but the Clerk's Office rejected the filing after receiving only some of the submitted documents. He made additional filing attempts, including one that was rejected as illegible, and the notice was ultimately accepted six days after the deadline. The trial court denied an extension, relying in part on an asserted sixty-day filing requirement, an alleged failure to respond to a show-cause order, and Ventura's prior electronic-filing difficulties.

PROCEDURAL HISTORY

Ventura's underlying negligence action was dismissed for want of prosecution after he failed to appear at a scheduling conference. After an earlier appeal resulted in a remand, the trial court again denied his motion to reopen the case. Ventura filed a notice of appeal six days late and then moved under D.C. App. R. 4(a)(5) for an extension based on excusable neglect arising from unsuccessful electronic filing attempts. The trial court denied the extension, and the District of Columbia Court of Appeals reversed.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The Clerk of the District of Columbia Court of Appeals was directed to issue a briefing order so that the appeal could be considered on the merits.

CASES CITED

- In re Ak. V., 747 A.2d 570, 574 (D.C. 2000)
- In re Estate of Yates, 988 A.2d 466, 468 (D.C. 2010)
- In re Ak. V., 747 A.2d at 575
- Wynn v. United States, 386 A.2d 695, 698 n.10 (D.C. 1978)
- Clark v. Bridges, 75 A.3d 149, 153-54 (D.C. 2013)
- Gibbs v. Frisco City, Ala. Police Dep't, 626 F.2d 1218, 1221 (5th Cir. 1980)
- United States v. Andrews, 790 F.2d 803, 807 (10th Cir. 1986)