

SUPREME JUDICIAL COURT OF MAINE

Crossley v. Taylor, 2004 ME 37

845 A.2d 574 (Me. 2004) · Decided March 26, 2004

SUMMARY

The Maine Supreme Judicial Court held that the District Court abused its discretion by denying Crossley’s motion to extend the appeal period based on excusable neglect. The court concluded that the misleading notice of judgment, the short delay, and the absence of bad faith supported allowing the late appeal, and it vacated and remanded.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Alexander; Calkins; Clifford; Dana; Levy; Rudman
JURISDICTION	Maine
DECIDED	March 26, 2004
DISPOSITION	vacated
PROCEDURAL POSTURE	Crossley appealed from the District Court's denial of his motion under M.R. App. P. 2(b)(5) to permit filing an appeal after expiration of the twenty-one-day appeal period.
STANDARD OF REVIEW	Abuse of discretion. The determination whether excusable neglect exists is generally left to the trial court's sound discretion, but denial of the extension was reviewed for whether the court exceeded the bounds of that discretion.
PRECEDENTIAL VALUE	Published Maine Supreme Judicial Court opinion; precedential
PARTIES	John G. Crossley Sr. v. Taylor

TOPICS

- appellate procedure
- standard of review
- final judgment rule
- civil procedure
- contracts

PRACTICE AREAS

- appellate procedure
- civil procedure
- contracts

QUESTIONS PRESENTED

1. Whether the District Court abused its discretion by denying Crossley's motion under M.R. App. P. 2(b) (5) to extend the time for filing an appeal when the court's notice misled him about the appeal deadline.
2. Whether a post-judgment motion to extend the time for appeal should preferably be presented to the trial judge when that judge is reasonably available.

HOLDINGS

1. When an appeal is filed only a short time late because the court's own notice misled the appellant about the filing deadline, and the record shows no bad faith or dilatory conduct, denying an extension for excusable neglect exceeds the bounds of the trial court's discretion.
2. When reasonably available, the trial judge who handled the underlying case is the preferable judge to consider a post-judgment motion to extend the time for appeal.

KEY QUOTATIONS

“The short delay in filing the appeal, the fact that the record indicates no bad faith or dilatory practices by either party, and the court’s active participation in misleading the parties as to the deadline for filing an appeal, support our conclusion that it was an abuse of discretion for the court to deny Crossley’s motion to extend time for filing the appeal.” (¶ 6)

FACTUAL BACKGROUND

The judgment in the parties' contract action was docketed on June 11, 2003. The clerk's notice incorrectly stated that the appeal period would expire on July 12, although the applicable twenty-one-day period expired on July 2. Crossley filed his appeal three business days late, with no indication of bad faith or dilatory conduct, and sought an extension after being notified that the appeal was untimely.

PROCEDURAL HISTORY

The underlying contract judgment was docketed on June 11, 2003. Although the appeal period expired on July 2, 2003, the court clerk's notice stated that it would expire on July 12, 2003. Crossley filed his notice of appeal on July 8, 2003, and then timely moved for an extension based on excusable neglect. The District Court denied the motion without a hearing, and Crossley appealed that denial to the Law Court.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The order denying Crossley's motion was vacated, and the matter was remanded to the District Court for further proceedings in accordance with the opinion.

CASES CITED

- Lingley v. Maine Workers' Comp. Bd., 2003 ME 32, ¶ 3, 819 A.2d 327, 329

- Gregory v. City of Calais, 2001 ME 82, ¶ 9, 771 A.2d 383, 386

OPINION

Crossley v. Taylor 845 A.2d 574

ALEXANDER, J.

ALEXANDER, Judge: [¶ 1] John G. Crossley Sr. appeals from an order of the District Court (York, Wheeler, J.) denying his motion, pursuant to M.R.App. P. 2(b)(5), to permit the filing of his appeal after expiration of twenty-one days from judgment. He contends that the court erred in failing to find excusable neglect to allow his appeal of the judgment of the District Court (Kennedy, J.) in the contract action between the parties. Because, in the circumstances of this case, Crossley's appeal should have been allowed when the notice of judgment from the District Court misled him as to the proper appeal deadline, we vacate the order denying his motion.

I. CASE HISTORY

[¶ 2] The judgment in the contract action between the parties was docketed on June 11, 2003.¹ Also, on June 11, a court clerk sent copies of the judgment to the parties accompanied by a notice that stated: "The appeal period will expire: July 12, 2003." *575The notice also informed the parties that they would have fourteen days after expiration of the appeal period to retrieve exhibits or the exhibits would be destroyed. [¶ 3] The twenty-one day appeal period specified by M.R.App. P. 2(b)(3) expired on July 2. Crossley's notice of appeal was filed on July 8, 2003. With the intervening Fourth of July weekend, the appeal was three business days late. [¶ 4] The clerk of the Law Court informed the parties that the appeal was untimely by letter dated July 14, 2003. On July 21, 2003, within the additional twenty-one days specified by M.R.App. P. 2(b)(5), Crossley filed his motion to extend time. At the time, M.R.App. P. 2(b)(5) authorized an extension of time to be granted upon a showing of "excusable neglect."² Crossley's motion was denied by a notation "Denied" being written on the motion on August 6, 2003. The docket does not indicate any hearing on the motion. Crossley's appeal from that order was filed on August 12, 2003.

II. LEGAL ANALYSIS

[¶ 5] We have said that the determination of whether excusable neglect exists is left to the sound discretion of the trial court. *Lingley v. Maine Workers' Comp. Bd.*, 2003 ME 32, ¶ 3, 819 A.2d 327, 329. We defer to this discretion because "[t]he trial court is in a superior position to evaluate the credibility and good faith of the party claiming excusable neglect." *Id.*; *Gregory v. City of Calais*, 2001 ME 82, ¶ 9, 771 A.2d 383, 386. Here, a judge other than the trial judge, without holding a hearing, acted on the motion to extend time. A trial judge will usually have the most familiarity with the parties, the issues, and the litigation tactics observed in a case tried to that judge. Accordingly, when a post-judgment motion is filed in such a case, it is preferable to present such a motion to the trial judge if the trial judge is reasonably available to consider the motion. [¶ 6] In this case, where the appeal was filed only three days late, and the delayed filing was occasioned by a misleading notice from the court, the court exceeded the bounds of its discretion

in denying the motion to extend time. The short delay in filing the appeal, the fact that the record indicates no bad faith or dilatory practices by either party, and the court's active participation in misleading the parties as to the deadline for filing an appeal, support our conclusion that it was an abuse of discretion for the court to deny Crossley's motion to extend time for filing the appeal. The entry is: Order vacated. Remanded to the District Court for further proceedings in accordance with this opinion. . Despite the requirement of M.R.App. P. 8(g)(2), the appendix to Crossley's brief does not include the docket entries. . Effective January 1, 2004, the "excusable neglect" standard in M.R.App. P. 2(b)(5) changed to a "good cause" standard in M.R.App. P. 2(b)(5)(A).