

COURT OF APPEALS OF GEORGIA

Adams v. Neykov

Adams · No. A20A1217; A20A1500 · Decided October 21, 2020

SUMMARY

The Georgia Court of Appeals affirmed a mandamus order requiring the clerk of the Municipal Court of the City of Dallas to accept and approve a supersedeas bond for a quasi-criminal nuisance appeal. The court held that the clerk's authority under OCGA § 5-4-20 was limited to reviewing the bond's amount, security, and legality, and did not extend to evaluating the validity or timeliness of the petition for certiorari. The court dismissed the cross-appeal as moot.

CASE DETAILS

COURT	Court of Appeals of Georgia
WRITING FOR THE COURT	Rickman, J.; Dillard, P. J.; Brown, J.
JURISDICTION	Georgia
DECIDED	October 21, 2020
DOCKET	A20A1217; A20A1500
DISPOSITION	other
PROCEDURAL POSTURE	The municipal court clerk appealed an order of the Superior Court of Paulding County granting Neykov's petition for mandamus and requiring the clerk to accept and approve a supersedeas bond. Neykov cross-appealed one aspect of the order.
STANDARD OF REVIEW	A grant of mandamus is reviewed for manifest abuse of discretion; the trial court's legal determinations are reviewed de novo. The court overruled <i>All Star, Inc. v. Alford</i> to the extent it stated that appellate review of a mandamus grant is de novo.
PRECEDENTIAL VALUE	Published opinion; precedential under Georgia appellate law.
PARTIES	Leann Adams, as Clerk of the Municipal Court of the City of Dallas v. Dafiyan N. Neykov

TOPICS

writ of certiorari appellate procedure mootness remedies municipal law

PRACTICE AREAS

Appellate procedure

Civil procedure

Mandamus

Municipal law

Criminal procedure

QUESTIONS PRESENTED

1. Whether a municipal court clerk may refuse to accept and approve a supersedeas bond because of alleged defects in the petition for certiorari, including timeliness, payment of costs, or the validity of a renewal action.
2. Whether the clerk properly refused the original bond because it used the term "void" rather than "forfeited," despite the existence of an amended bond containing the required wording.
3. Whether Neykov's cross-appeal challenging the validity of his dismissal and renewal of the certiorari petition remained justiciable.

HOLDINGS

1. A municipal court clerk's authority to review and approve a supersedeas bond under OCGA § 5-4-20 (a) is limited to the bond itself, including its amount, security, legality, and sufficiency; the clerk may not investigate or decide whether the related petition for certiorari was timely, properly filed, supported by a costs certificate, or validly renewed.
2. An appellate court reviews a trial court's grant of mandamus for manifest abuse of discretion, while reviewing the trial court's legal determinations de novo.
3. The clerk's challenge to the original bond wording did not warrant reversal because the superior court alternatively held that the clerk lacked authority to refuse the amended bond containing the required wording, and the clerk did not challenge that alternative ruling.
4. Neykov's cross-appeal concerning the clerk's authority to challenge his dismissal and renewal of the certiorari petition was moot because the holding in Division 1 resolved the relevant issue.

KEY QUOTATIONS

“Thus, the Clerk is given discretion to accept and approve the bond itself, nothing more.” (at 8)

“In sum, pretermitted whether the trial court correctly ruled that OCGA 5-4-5 does not apply to criminal cases or that Neykov was authorized to file a renewal, we hold that the Clerk was not authorized to refuse to accept and approve Neykov’s request for a supersedeas bond on any of the above grounds because they fall outside of the discretionary authority granted to her under OCGA § 5-4-20.” (at 9)

FACTUAL BACKGROUND

The Municipal Court of the City of Dallas found Neykov liable in a quasi-criminal nuisance proceeding, fined him \$680, and awarded the City \$1,500 for litigation costs and attorney fees. After seeking superior-court certiorari review, Neykov attempted to obtain a supersedeas bond from the municipal court clerk. The clerk refused to accept or approve the bond based partly on alleged defects in Neykov's certiorari petition and renewal, prompting Neykov to seek mandamus.

PROCEDURAL HISTORY

Neykov was fined and ordered to pay the City of Dallas's litigation costs and attorney fees in a municipal nuisance proceeding. He sought a writ of certiorari in superior court, attempted to obtain a supersedeas bond, dismissed that petition without prejudice, and filed a renewed certiorari petition and a mandamus action against the clerk. The superior court granted mandamus, ruling that the clerk could not refuse the amended bond based on alleged defects in the certiorari proceeding. The Court of Appeals affirmed the mandamus order and dismissed Neykov's cross-appeal as moot.

DISPOSITION

other

CASES CITED

- DeKalb Cty. v. Gerard, 207 Ga. App. 43, 43 (1) (427 SE2d 36) (1993)
- Burke County v. Askin, 294 Ga. 634, 637 (2) (755 SE2d 747) (2014)
- Blalock v. Cartwright, 300 Ga. 884, 885 (I) (799 SE2d 225) (2017)
- All Star, Inc. v. Alford, 352 Ga. App. 631 (835 SE2d 672) (2019)
- Bibb County v. Monroe County, 294 Ga. 730, 734 (2) (755 SE2d 760) (2014)
- Gwinnett County v. Ehler Enterprises, 270 Ga. 570, 570 (1) (512 SE2d 239) (1999)
- Williams v. City of Douglasville, 354 Ga. App. 313, 316 (840 SE2d 715) (2020)
- Buckler v. DeKalb County, 290 Ga. App. 190, 191 (1) (659 SE2d 398) (2008)
- Spain v. Clements, 63 Ga. 786, 787 (1879)
- Hughes v. Sikes, 273 Ga. 804, 805 (1) (546 SE2d 518) (2001)
- Orr v. Culpepper, 161 Ga. App. 801, 804 (288 SE2d 898) (1982)
- Cobb County v. Herren, 230 Ga. App. 482 (496 SE2d 558) (1998)
- Standard Gas Products Co. v. Vismor, 31 Ga. App. 418 (121 SE 854) (1923)