

COURT OF APPEALS OF TEXAS, TWELFTH COURT OF APPEALS DISTRICT

Joe Lynn Pittman v. State

Pittman v. State · No. 12-15-00009-CR · Decided September 30, 2015

SUMMARY

The Texas Twelfth Court of Appeals granted the appellant’s pro se motion for an extension of time to file a brief. The order directed the trial court to provide Joe Lynn Pittman access to the appellate record and required him to file any pro se brief within thirty days after the record was first made available.

CASE DETAILS

COURT	Court of Appeals of Texas, Twelfth Court of Appeals District
JURISDICTION	Texas
DECIDED	September 30, 2015
DOCKET	12-15-00009-CR
DISPOSITION	other
PROCEDURAL POSTURE	During a criminal appeal, appointed counsel filed an Anders brief. The appellant, proceeding pro se, moved for an extension of time to file a pro se brief because he had been unable to examine the appellate record.
PRECEDENTIAL VALUE	unknown
PARTIES	Joe Lynn Pittman v. The State of Texas

TOPICS

- appellate procedure
- criminal procedure
- right to counsel

PRACTICE AREAS

- criminal appellate procedure
- Anders briefing

QUESTIONS PRESENTED

- Whether the appellant should receive additional time to file a pro se brief when he had been unable to examine the appellate record after counsel filed an Anders brief.

2. What procedures were necessary to ensure that the appellant had an opportunity to review the appellate record before filing a pro se brief.

HOLDINGS

1. When an appellant has been unable to examine the appellate record after appointed counsel files an Anders brief, the trial court must provide the appellant an opportunity to fully examine the record, and the appellant receives 30 days from the date the record is first made available to file a pro se brief.

KEY QUOTATIONS

“Appellant shall have thirty (30) days from the day the appellate record was first made available to him to file his pro se brief with this Court.” (order)

FACTUAL BACKGROUND

Appellant Joe Lynn Pittman was pursuing a criminal appeal with the assistance of counsel, who had filed an Anders brief. Pittman had been unable to examine the appellate record and therefore requested an extension of time to file a pro se brief. The appellate court directed the trial court to make the record available to him and to report the access provided.

PROCEDURAL HISTORY

The appeal was pending from the 114th District Court in Smith County, Texas. After counsel filed an Anders brief, the appellant sought additional time to file a pro se brief, asserting that he had not been able to review the appellate record. The court ordered the trial court to provide access to the record, report the dates and duration of access, and allowed the appellant 30 days from the first date of access to file his brief.

DISPOSITION

other

REMAND INSTRUCTIONS

The trial court was ordered to ensure that appellant could fully examine the appellate record on or before October 30, 2015, notify the appellate court in writing of the dates on which the record was made available and the amount of access provided on each date, and allow appellant 30 days from the first date the record was made available to file a pro se brief.

OPINION

PER CURIAM.

FILE COPY CAUSE NO. 12-15-00009-CR IN THE COURT OF APPEALS TWELFTH COURT OF APPEALS DISTRICT TYLER, TEXAS JOE LYNN PITTMAN, } APPEALED FROM 114TH DISTRICT COURT APPELLANT V. } IN AND FOR THE STATE OF TEXAS, } SMITH COUNTY, TEXAS APPELLEE ORDER Came on for consideration the Appellant’s Pro Se

Motion for Extension of Time to File Brief in the above-referenced cause, and it appearing that Appellant's counsel has filed an Anders brief herein and that Appellant has been unable to examine the record so that he can file a pro se brief, it is hereby ORDERED that the trial court ensure that Appellant has the opportunity to fully examine the appellate record on or before October 30, 2015, and it is FURTHER ORDERED that the trial court notify this Court in writing as to the date or dates upon which the appellate record was made available to Appellant and the amount of time for which Appellant had access to the record on each date.

Appellant shall have thirty (30) days from the day the appellate record was first made available to him to file his pro se brief with this Court. WITNESS THE HONORABLE JAMES T. WORTHEN, Chief Justice, Court of Appeals District, Tyler, Texas. GIVEN UNDER MY HAND AND SEAL OF OFFICE at Tyler, Texas, this 30th day of September 2015, A.D. Respectfully yours, PAM ESTES, CLERK By: _____ Katrina McClenny, Chief Deputy Clerk