

SUPREME COURT OF ARKANSAS

Coggins v. Coggins, 353 Ark. 431

108 S.W.3d 588 (2003) · No. 03-417 · Decided May 29, 2003

SUMMARY

The Arkansas Supreme Court denied Fred H. Coggins’s petition for a writ of certiorari to complete the record in his divorce appeal. The court held that he failed to seek an additional timely extension from the circuit court or demonstrate that he was unable to obtain one, and it dismissed the appeal because timely filing of the appellate record is jurisdictional.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                     |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Arkansas                                                                                                                                                                                                                                           |
| WRITING FOR THE COURT | Per Curiam                                                                                                                                                                                                                                                          |
| JURISDICTION          | Arkansas                                                                                                                                                                                                                                                            |
| DECIDED               | May 29, 2003                                                                                                                                                                                                                                                        |
| DOCKET                | 03-417                                                                                                                                                                                                                                                              |
| DISPOSITION           | writ_denied                                                                                                                                                                                                                                                         |
| PROCEDURAL POSTURE    | After a divorce decree, the appellant filed a notice of appeal, obtained one extension of time to file the appellate record, and then petitioned the Supreme Court of Arkansas for a writ of certiorari to complete the record after the extended deadline expired. |
| STANDARD OF REVIEW    | The court applied the requirements of Ark. R. App. P.-Civ. 5(b) and reviewed whether the appellant demonstrated entitlement to a writ of certiorari to complete the appellate record.                                                                               |
| PRECEDENTIAL VALUE    | Published Arkansas Supreme Court opinion                                                                                                                                                                                                                            |
| PARTIES               | Fred H. Coggins v. Patsy A. Coggins                                                                                                                                                                                                                                 |

TOPICS

- writ of certiorari
- appellate procedure
- final judgment rule
- civil procedure
- family law procedure

PRACTICE AREAS

- appellate procedure
- civil procedure
- family law

## QUESTIONS PRESENTED

1. Whether the Supreme Court of Arkansas should issue a writ of certiorari under Ark. R. App. P.-Civ. 5(b) and Supreme Court Rule 3-5 to complete the appellate record after the expiration of a prior extension.
2. Whether the failure to timely file the appellate record required dismissal of the appeal.

## HOLDINGS

1. A petitioner seeking a writ of certiorari to complete the appellate record must show that the petitioner was unable to obtain a further extension order from the trial court before the applicable deadline and must demonstrate that the delay in obtaining the record was necessary. Fred Coggins made neither showing, so the writ was denied.
2. The timely filing of the record on appeal is a jurisdictional requirement for perfecting an appeal; because the writ was denied and the record was not timely filed, the appeal was dismissed.

## KEY QUOTATIONS

*“Fred simply cannot circumvent the clear procedures provided in Rule 5(b) by filing a scant partial record in this court at the last minute.”* (108 S.W.3d at 590)

*“This court has consistently held that the timely filing of the record on appeal is a jurisdictional requirement to perfecting an appeal.”* (108 S.W.3d at 590)

## FACTUAL BACKGROUND

Fred and Patsy Coggins were divorced by decree entered November 19, 2002. Fred timely filed a notice of appeal and obtained an extension of the record-filing deadline to April 14, 2003. He filed a partial record and sought certiorari on that date because the court reporter had not supplied the transcript, but he had not sought an additional extension from the circuit court and did not show that the delay was necessary.

## PROCEDURAL HISTORY

The circuit court entered the parties' divorce decree on November 19, 2002. Fred Coggins filed a timely notice of appeal and received an extension until April 14, 2003, to file the record. He did not seek a further extension from the circuit court; instead, he filed a partial record and petitioned the supreme court for a writ of certiorari, later lodging the full record on April 21, 2003. The supreme court denied the writ and dismissed the appeal.

## DISPOSITION

writ\_denied

## CASES CITED

- Seay v. Wildlife Farms, Inc., 342 Ark. 503, 29 S.W.3d 711 (2000)
- Jacobs v. State, 321 Ark. 561, 906 S.W.2d 670 (1995) (per curiam)
- Alexander v. Beaumont, 275 Ark. 357, 629 S.W.2d 300 (1982) (per curiam)

- Murphy v. Dumas, 343 Ark. 608, 36 S.W.3d 351 (2001) (per curiam)
- Harper v. Pearson, 262 Ark. 294, 556 S.W.2d 142 (1977)
- Osburn v. Arkansas Department of Human Services, 341 Ark. 218, 15 S.W.3d 673 (2000)

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