

COURT OF CIVIL APPEALS OF ALABAMA

Savannah Michele McCarthy v. Destini Love Duren

McCarthy v. Duren · No. CL-2025-0401 · Decided February 27, 2026

SUMMARY

The Alabama Court of Civil Appeals held that the parties’ agreement to continue a hearing on a postjudgment motion beyond the period specified in Rule 59.1, Ala. R. Civ. P., also extended the time for the trial court to rule on and dispose of the motion. The court reversed and remanded after concluding that the trial court erred in treating the motion as denied by operation of law.

CASE DETAILS

COURT	Court of Civil Appeals of Alabama
WRITING FOR THE COURT	Hanson, J.; Moore, P.J.; Fridy, J.; Bowden, J.; Edwards, J.
JURISDICTION	Alabama Court of Civil Appeals
DECIDED	February 27, 2026
DOCKET	CL-2025-0401
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	McCarthy appealed from a divorce judgment and the trial court's order concluding that her postjudgment motion had been denied by operation of law.
STANDARD OF REVIEW	The opinion does not expressly identify a standard-of-review formulation; it reviewed the trial court's application of Rule 59.1 and the resulting timeliness consequence de novo.
PRECEDENTIAL VALUE	published
PARTIES	Savannah Michele McCarthy v. Destini Love Duren

TOPICS

- motion for reconsideration
- appellate procedure
- final judgment rule
- civil procedure
- divorce

PRACTICE AREAS

- civil procedure
- appellate procedure
- family law

QUESTIONS PRESENTED

1. Whether the parties' express agreement on the record to continue the hearing on McCartha's postjudgment motion beyond the period allowed by Rule 59.1 also extended the time for the trial court to rule on and dispose of that motion.
2. Whether the trial court erred by concluding that McCartha's postjudgment motion had been denied by operation of law and canceling the hearing.

HOLDINGS

1. Under amended Rule 59.1, an express consent of all parties appearing of record to extend the time for a hearing on a postjudgment motion beyond 90 days is deemed to include consent to extend the time for the trial court to rule on and dispose of the motion.
2. After the parties' express agreement to extend the Rule 59.1 period, the trial court had authority to grant subsequent continuances for good cause, and the reasons stated in the parties' later motions amounted to good cause.
3. The trial court erred in concluding that McCartha's postjudgment motion had been denied by operation of law because the November 11 agreement and subsequent good-cause continuances extended the time for the trial court to rule.

KEY QUOTATIONS

“Consent to extend the time for a hearing on the postjudgment motion beyond the 90 days is deemed to include consent to extend the time for the trial court to rule on and dispose of the postjudgment motion.” (10)

“The judgment of the trial court is reversed, and the cause is remanded for the trial court to hold a hearing and rule on the postjudgment motion.” (15)

FACTUAL BACKGROUND

The trial court entered a final judgment divorcing McCartha and Duren on August 21, 2024. McCartha filed a postjudgment motion on September 19, 2024, and the hearing was repeatedly continued at the request of both parties. Duren's November 11, 2024, motion stated that the parties agreed to hold the hearing outside the time allowed by the Alabama Rules of Civil Procedure, and subsequent continuance motions cited counsel conflicts and other reasons amounting to good cause. On April 22, 2025, the trial court concluded that the postjudgment motion had been denied by operation of law and canceled the hearing.

PROCEDURAL HISTORY

McCartha filed a postjudgment motion to alter, amend, or vacate the divorce judgment. The parties repeatedly sought and obtained continuances of the hearing, including a motion stating that they agreed to hold the hearing outside the period allowed by the Alabama Rules of Civil Procedure. The trial court later concluded that the motion had been denied by operation of law and canceled the hearing. The Court of Civil Appeals reversed and remanded for a hearing and ruling on the postjudgment motion.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must hold a hearing and rule on McCartha's postjudgment motion.

CASES CITED

- Ex parte Bodenhamer, 904 So. 2d 294 (Ala. 2004)
- Slay v. Slay, 292 So. 3d 651 (Ala. Civ. App. 2019)
- Simmons v. Cook, 254 So. 3d 899 (Ala. Civ. App. 2017)
- Smith v. Smith, 991 So. 2d 752 (Ala. Civ. App. 2008)
- Crowder v. Zoning Bd. of Adjustment of Birmingham, 409 So. 2d 837, 838 (Ala. Civ. App. 1981)

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