



MOORE v. HALEY

2021 OK 37

Case Number: 119435

Decided: 06/21/2021

THE SUPREME COURT OF THE STATE OF OKLAHOMA

Cite as: 2021 OK 37, __ P.3d __

NOTICE: THIS OPINION HAS NOT BEEN RELEASED FOR PUBLICATION. UNTIL RELEASED, IT IS SUBJECT TO REVISION OR WITHDRAWAL.

RICKY DANE MOORE Appellant,

v.

RANDI JO HALEY, Appellee.

ORDER

¶1 Appellee filed a Motion to Dismiss Appellant's Petition in Error based on the Appellant's failure to follow Supreme Court Rules 1.5(a) and 1.28(a). Further, Appellee challenges the finality of the Summary Order attached to the Petition in Error.

¶2 Appellant failed to attach a certified copy of the judgment, decree or order from which the appeal is taken. The Summary Order attached to the Petition in Error does not meet the statutory requirements set forth in 12 O.S. §696.2 and 12 O.S.2011 §696.3. Section 696.3 sets forth the requirements for a final appealable order:

A. Judgments, decrees and appealable orders that are filed with the clerk of the court shall contain:

1. A caption setting forth the name of the court, the names and designation of the parties, the file number of the case and the title of the instrument;
2. A statement of the disposition of the action, proceeding or motion, including a statement of the relief awarded to a party or parties and the liabilities and obligations imposed on the other party or parties, including the amount of any prejudgment interest;
3. The signature and title of the court; and
4. Any other matter approved by the court.

B. Judgments, decrees and appealable orders that are filed with the clerk of the court may contain a statement of costs, attorney fees and interest other than prejudgment interest, or any of them, if they have been determined prior to the time the judgment, decree or appealable order is signed by the court in accordance with this section.

C. The clerk shall endorse on the judgment, decree or appealable order the date it was filed and the name and title of the clerk.

D. A file-stamped copy of the judgment, decree, or appealable order shall be served upon all parties, including those parties who are in default for failure to appear in the action, as provided in Section 696.2 of this title.

The Summary Order attached to the Petition in Error does not comply with the statutory requirements because it does not contain the full caption of the case, the full names of the parties or counsel appearing, or the full name of the assigned judge.

¶3 Many times, Summary Orders are illegible and may be followed with a formal, typed Journal Entry of Judgment. This creates uncertainty for litigants and the appellate courts about the finality of the Summary Order, and the computation of appeal time. Sometimes Summary Orders may include language indicating a subsequent order should follow and other times they do not. The Summary Orders typically do not contain evidence of service on the parties. The title of the document "Summary Order" denotes that this is an abbreviated account of the ruling of the court conducted without legal formalities.¹

¶4 The use of the Summary Order form has long created problems and confusion for the appellate courts and a hardship on the parties attempting to appeal from a final order. These documents are most analogous to a court minute or informal statement of proceedings which are not considered appealable orders. Title 12 O.S.2011 § 696.2(D) reads:

The filing with the court clerk of a written judgment, decree or appealable order, prepared in conformance with Section 696.3 of this title and signed by the court, shall be a jurisdictional prerequisite to the commencement of an appeal. **The following shall not constitute a judgment, decree or appealable order:** A minute entry; verdict; **informal statement of the proceedings** and relief awarded, including, but not limited to, a letter to a party or parties indicating the ruling or instructions for preparing the judgment, decree or appealable order.

Prospectively, we will not recognize a filed Summary Order as a final judgment under 12 O.S.2011 § 696.3.

¶5 Despite our resolution herein above, Appellee's motion to dismiss is overruled to allow Appellant an opportunity to secure a final journal entry of judgment which satisfies the requirements of 12 O.S.2011 §§ 696.2 and 696.3. Appellant is granted thirty (30) days from the date of this order to obtain an appealable judgment in the lower court and file an amended petition in error with a certified copy of the judgment attached. Failure to comply within thirty (30) days may result in the dismissal of this appeal.

DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE THIS 21st DAY OF JUNE, 2021.

/S/ACTING CHIEF JUSTICE

Kauger, Winchester, Edmondson, Combs, Gurich and Rowe, JJ., concur;

Darby, C.J. and Kane, V.C.J. not voting.

FOOTNOTES

¹ Summary has been defined as: 1. using few words to give the most important information about something; 2. done quickly in a way that does not follow the normal process. "Summary." Summary - Definition for English-Language Learners from Merriam-Webster's Learner's Dictionary. Accessed June 15, 2021. <https://learnersdictionary.com/definition/summary>. See also Black's Law Dictionary (11th ed. 2019) which defines summary as: 1. Short; concise; 2. Without the usual formalities.

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Title 12. Civil Procedure

Cite	Name	Level
<u>12 O.S. 696.2.</u>	<u>Judgment, Decree or Appealable Order to be Written - Preparation of Written Documents - Filing - Mailing - Effect</u>	Discussed at Length
<u>12 O.S. 696.3.</u>	<u>Judgments, Decrees and Appealable Orders That are Filed Should Contain the Following</u>	Discussed