

SUPREME COURT OF VIRGINIA



SUPREME COURT BUILDING
100 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219
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Granted Appeal Summary

Case

ROBERT E. GALLOWAY, ET AL. v. COUNTY OF NORTHAMPTON, ET AL.
(Record Number 191387)

From

The Circuit Court of Northampton County; W.R. Lewis, III, Judge.

Counsel

Kevin E. Martingayle (Bischoff Martingayle, P.C.) and John W. Burdiss for appellant.

Andrew R. McRoberts, David C. Tait, and Sean M. Hutson (Sands Anderson, PC), Beverly Leatherbury (Office of the County Attorney), and John A. Conrad (The Conrad Firm) for respondents.

Assignments of Error

1. Because of the County's noncompliance with Rule 4:1(b)(8), the trial court erred in hearing and granting the County and Town relief based upon the County's motion.
2. Because the County and Town proceeded at the hearing conducted March 29, 2019 on the basis of an amended motion that attached previously missing necessary exhibits, and because no leave of court, as required by Rule 1:8, was obtained by the County before filing an amended motion, the trial court was without jurisdiction to hear arguments based upon the amended motion and exhibits, and erred in granting the County and Town relief. Alternatively, there is insufficient support in the record for the trial court's ruling and subsequent dismissal of the litigation.
3. Because the Galloways complied with Rules 4:1(g) and 4:8(d), the trial court erred in dismissing the litigation due to the Galloways' alleged noncompliance.
4. The trial court erred in dismissing the litigation due to purported noncompliance with Rule 4:1(g) because the only remedy contemplated by Rule 4:1(g) is a requirement that a missing signature be supplied "promptly after the omission is called to the attention of the party making the request, response or objection. . . ."
5. Under the circumstances of this litigation, the trial court abused its discretion and erred in dismissing the litigation based upon nothing more than purported technical noncompliance by

the Galloways and in the absence of any showing of bad faith by the Galloways or actual prejudice to the County or Town.