



IN THE
Indiana Supreme Court

Supreme Court Case No. 23S-CT-378

Brent Taylor,
Appellant-Plaintiff,

—v—

Allen County Board of Commissioners, et al.,
Appellees-Defendants.

Decided: December 13, 2023

Appeal from the DeKalb Superior Court

No. 17D02-2207-CT-35

The Honorable Monte L. Brown, Judge

On Petition to Transfer from the Indiana Court of Appeals

No. 23A-CT-131

Per Curiam Opinion

Chief Justice Rush and Justices Massa, Slaughter, Goff, and Molter concur.

Per curiam.

Brent Taylor sued the Allen County Board of Commissioners, the Allen County Public Defender's Office, and two individual Allen County public defenders.

The trial court dismissed Taylor's action against the Allen County Board of Commissioners and granted judgment on the pleadings to the Allen County Public Defender's Office and the individual public defenders. Taylor appealed the trial court's order. Following extensions of time, his appellant's brief and appendix were due to be filed by June 9, 2023. Taylor timely filed a "Motion to File Appellant's Brief and Appendix" on June 7 and tendered his brief and appendix with that motion. The Clerk then issued a Notice of Defect that specified three issues with Taylor's brief and appendix that he needed to correct. The Notice of Defect gave Taylor, who is housed in the Indiana Department of Correction, twenty business days to submit corrected documents. Three days after the Clerk issued the Notice of Defect, the Indiana Court of Appeals issued an order dismissing Taylor's appeal with prejudice. Taylor now seeks transfer and asks this Court to review the dismissal of his appeal.

Discussion & Decision

Indiana Appellate Rule 23 addresses correction of documents that are not compliant with the appellate rules: "Individuals who are incarcerated . . . and are not represented by an attorney must correct defect(s) no later than twenty (20) business days from the date of the Notice of Defect." Ind. Appellate Rule 23(D)(1)(a). Indiana Appellate Rule 45 allows for an appeal to be summarily dismissed when an appellant's brief is not timely filed. App. R. 45(D). The record here indicates that Taylor timely tendered his brief and appendix, and he had twenty days from the date on the Notice of Defect to cure the defects in those documents, making them due by July 19, 2023. The record also shows the Notice of Defect's deadline had not yet expired at the time Taylor's appeal was dismissed.

Conclusion

Under these circumstances, we find Taylor’s appeal was prematurely dismissed. We grant transfer, vacate the Court of Appeals’ order dismissing Taylor’s appeal, and remand for the Court of Appeals to resume jurisdiction over this appeal. *See* App. R. 58(A).

Rush, C.J., and Massa, Slaughter, Goff, and Molter, JJ., concur.

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