

GUARDIANSHIP AND CONSERVATORSHIP
OF VIRGINIA BRAGDON

Submitted on Briefs September 9, 2004
Decided September 27, 2004

Panel: CLIFFORD, RUDMAN, DANA, ALEXANDER, and LEVY, JJ.

MEMORANDUM OF DECISION

Randon Bragdon, Sheila Coppola, Brenda Ziray, and Jean Richie (appellants) appeal from an order of the Somerset County Probate Court (*Alsop, J.*) denying their motion, pursuant to M.R. App. P. 2(b)(5)(A), to permit the filing of their appeal after the expiration of twenty-one days from final judgment. The appellants assert their motion for enlargement should have been reviewed on the basis of the good cause standard instead of an excusable neglect standard. We agree.

Effective January 1, 2004, an amendment to M.R. App. P. 2(b)(5)(A) changed the basis for extending the time to appeal from excusable neglect to good cause. Rule 2(b)(5)(A) provides:

Upon a showing of *good cause*, the court may, before or after the time has expired, with or without motion and notice, extend the time for filing the notice of appeal otherwise allowed for a period not to exceed 21 days from the expiration of the original time for filing an appeal prescribed by this subdivision.

M.R. App. P. 2(b)(5)(A) (emphasis added). All parties were unaware of the change in the rule at the time the court acted on the appellants' motion.

The entry is:

Order vacated. Remanded to the Somerset County Probate Court for consideration of the appellants' motion using the good cause standard.

Attorney for appellants:

Ralph A. Dyer, Esq.
P O Box 9739-1164
Portland, ME 04104

Attorney for appellees:

Arthur J. Greif, Esq.
Gilbert & Greif, P.A.
P O Box 2339
Bangor, ME 04402-2339

Guardian *ad Litem*:

Randy G. Day, Esq.
P O Box 58
Garland, ME 04939-0058