

Court of Appeals Finds Excusable Neglect for Pro Se Appellant

8.25.2010

Brad A. Catlin

Today, the Indiana Court of Appeals issued a memorandum decision, uncitable as authority under App. R. 65(D), in *Chaluvadi v. City of Indianapolis*, Case No. 49A02-1003-OV-230, a *pro se* appellant. The appellant was given a speeding ticket, but crossed out the "amount owed" portion of the ticket. The appellant assumed that it was a warning, until the trial court entered a default judgment on the traffic ticket and ordered that Chaluvadi's driver's license be suspended. The appellant used a form provided by the Court to challenge the judgment under Trial Rule 60(B) and the trial court denied that motion.

The appellate court reversed the trial court's order, finding that the appellant's confusion over whether she received a warning or ticket was "entirely understandable and excusable." The Court then went on "to glean from the materials available to us what Chaluvadi's defense would be," because the court's form for challenging the judgment was vague and the City did not file an appellate brief, and found that one existed.

The Court's generosity in this case appears to largely be caused by the particular circumstances of the case. But this is precisely what litigators should remember -- the circumstances and procedural posture of a case matter, especially when litigating against a *pro se* opponent.

UPDATE: On August 27, 2010, the Indiana Court of Appeals issued a similar decision, which it has designated for publication, reaching a similar result in *Butler v. State of Indiana*, Case No. 49A02-0904-CV-343.