

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JANUARY TERM A.D., 2004

LOUIS F. SELL,

Appellant,

vs.

MARILYN RAE SELL,

Appellee.

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** CASE NO. 3D04-142

**

** LOWER

TRIBUNAL NO. 01-1116

**

Opinion filed June 30, 2004.

An Appeal from the Circuit Court for Monroe County, Robert
M. Deehl, Judge.

Frigola, DeVane & Dorl, and William N. DeVane, Jr., and
Edna L. Caruso, for appellant.

Rudolph & Leacock, LLP, and Howard Rudolph, and David
Leacock; and Sheri Smallwood, Chartered, Sheri Smallwood, for
appellee.

Before LEVY, FLETCHER, and RAMIREZ, JJ.

PER CURIAM.

ON MOTION TO DISMISS GRANTED

We grant appellee Marilyn Rae Sell's Motion to Dismiss this
appeal. Rodriguez v. Rodriguez, 640 So. 2d 133 (Fla. 3d DCA

1994); Gazil v. Gazil, 343 So. 2d 595, 597 (Fla. 1977) ("Where the appellant has disobeyed an order of the trial court, the appellate court may, in its discretion, either entertain or dismiss an appeal."); McLemore v. McLemore, 567 So. 2d 23, 24 (Fla. 1st DCA 1990); Segall v. Downtown Assocs., 546 So. 2d 11, 12 (Fla. 3d DCA 1989); Keidaish v. Smith, 400 So. 2d 90, 91 (Fla. 2d DCA 1981). An appellate court, however, should ordinarily provide a grace period prior to dismissing the appeal, within which time the appellant may comply with the violated trial court order and thereby prevent dismissal. See Davidson v. District Court of Appeal, Fourth Dist., 501 So. 2d 603, 604 (Fla. 1987); Pasin v. Pasin, 517 So. 2d 742 (Fla. 4th DCA 1987). We therefore stay this dismissal for a period of ten (10) days to comply with the trial court's order, or post the previously ordered bond.