

NOT DESIGNATED FOR PUBLICATION

**STATE OF LOUISIANA
COURT OF APPEAL, THIRD CIRCUIT**

07-559

**LYNKEITH ZANDEL JAMES
VERSUS
SCOTT PERRY, JR., ET AL.**

**APPEAL FROM THE
NINTH JUDICIAL DISTRICT COURT
PARISH OF RAPIDES, NO. 218,396
HONORABLE BRUCE C. BENNETT, JR., DISTRICT JUDGE**

**JIMMIE C. PETERS
JUDGE**

Court composed of Oswald A. Decuir, Jimmie C. Peters, and Elizabeth A. Pickett,
Judges.

MOTION TO REINSTATE APPEAL GRANTED.

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Scott Perry, Jr.
Sanitation Service, Inc.**

PETERS, Judge.

The plaintiff-appellant, Lynkeith Zandel James, moves to have his appeal reinstated by this court. The appeal was dismissed on August 10, 2007, because the appellant failed to file a brief with this court. For the following reasons, we hereby grant the motion to reinstate appeal.

The plaintiff filed suit against the appellees, Scott Perry, Jr. and Sanitation Service, Inc., seeking damages as a result of a car accident. On November 11, 2006, the trial court signed a judgment finding in favor of the plaintiff, and awarding damages. The plaintiff filed a motion for new trial that was denied on January 3, 2007.

The appellant timely filed a motion and order for appeal on December 29, 2006. The trial court signed the order on February 5, 2007, granting the appellant an appeal.

The appeal record was lodged with this court on May 7, 2007. The appellant's brief was due to be filed in this court no later than June 1, 2007. Uniform Rules—Courts of Appeal, Rule 2–12.7. Thereafter, the Plaintiff was granted a fifteen-day extension to file his brief by June 18, 2007. Upon the appellant's failure to file the brief, this court ordered that the appellant file his brief by August 8, 2007, pursuant to Uniform Rules—Courts of Appeal, Rule 2-8.6. This court received the appellant's brief on August 9, 2007. Because this court did not receive the appellant's brief by August 8, 2007, this court returned the brief and dismissed the appeal on August 10, 2007. La.Code Civ.P. arts. 561, 2162, and 2165. Uniform Rules—Courts of Appeal, Rules 2–8.6 and 2–12.12.

The appellant requests that this court reinstate his appeal, stating that his attorney's husband died unexpectedly and was buried on August 6, 2007. The

appellant's attorney explains that the appellant should not be penalized for the attorney's problems. The appellant further states that his brief was filed only one day after the deadline and is complete and ready for refiling. We find that the appellant has shown good cause for the reinstatement of his appeal given that the appeal brief was filed only one day after this court's thirty-day deadline for dismissal, and that his attorney's husband died just before the deadline.

MOTION TO REINSTATE APPEAL GRANTED.

This opinion is **NOT DESIGNATED FOR PUBLICATION.**

Rules 2-16.2 and 2-16.3, Uniform Rules, Courts of Appeal.