

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
FULTON COUNTY

State of Ohio

Court of Appeals No. F-11-001

Appellee

Trial Court No. 92CR000118

v.

Daniel Rittner, Sr.

DECISION AND JUDGMENT

Appellant

Decided: June 15, 2011

* * * * *

Daniel L. Rittner, Sr., pro se.

* * * * *

OSOWIK, P.J.

{¶1} Appellant, Daniel L. Rittner, has filed a motion to reverse the December 23, 2010 judgment of the trial court. Rittner filed an appeal from that judgment on January 5, 2011. Appellant filed his brief on April 11, 2011. Appellee has not filed a brief or an extension of time to file a brief. Appellee's brief was due May 4, 2011.

{¶2} Rittner asks us to reverse the trial court judgment, pursuant to App.R. 18(C), because appellee has not responded to his brief. That rule states:

{¶3} " * * * If an appellee fails to file the appellee's brief within the time provided by this rule, or within the time as extended, the appellee will not be heard at oral argument except by permission of the court upon a showing of good cause submitted in writing prior to argument; and in determining the appeal, the court may accept the appellant's statement of the facts and issues as correct and reverse the judgment if appellant's brief reasonably appears to sustain such action."

{¶4} The rule does not require reversal of a trial court judgment as a sanction for appellee's failure to file a brief. It only allows the appellate court to accept appellant's version of the facts and to reverse the trial court's judgment if appellant's brief "reasonably appears to sustain" a reversal.

{¶5} Thus, the fact that appellee has not filed a brief in this appeal will be taken into consideration when the court decides this appeal on its merits.

{¶6} The motion is denied.

Thomas J. Osowik, P.J.

JUDGE

<p>This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at: http://www.sconet.state.oh.us/rod/newpdf/?source=6.</p>
