

JAMES T. CALHOUN, Appellant, v. LULU
CALHOUN, Appellee.

JUDGMENT WITHOUT OPINION.

Decided June 26, 1975.

Joseph J. F. Chesson for appellant. *Stephen Dunbar*
for appellee.

When this case was reached on the docket, Counsellor Joseph J. F. Chesson appeared for the appellant. Counsellor Stephen Dunbar appeared for the appellee and filed a motion to dismiss the appeal on the ground that the bill of exceptions was not filed until twenty-one days after rendition of judgment, twelve days after the time allowed by statute. The motion also alleged that the other two jurisdictional steps, that is, the filing of an approved appeal bond and service of notice of completion of appeal were not taken.

The contention of appellant's counsel to the effect that his bill of exceptions was filed in the Clerk's office within time, but that Judge Dunbar refused to approve it until after twenty-two days, is viewed with sympathy. But the law required that the bill signed by the appellant should have been presented to the judge for approval within ten days. If the bill had been presented and the judge had refused to sign, the Justice in chambers would have given relief upon application. A failure by appellant to have complied with these legal requirements leaves no alternative but to favorably consider the motion.

After studying the motion and hearing arguments on both sides, it is adjudged that the motion to dismiss should be and the same is hereby granted and the appeal is dismissed. Costs in these proceedings are disallowed. And the Clerk of this Court is ordered to send a mandate to the court below, commanding the judge therein to resume jurisdiction and enforce the judgment. And it is so ordered.