

Cite as 2009 Ark. 584

SUPREME COURT OF ARKANSAS

No. CV-09-886

IN RE ESTATE OF ARVER HICKS, JR.,
DECEASED

Opinion Delivered November 19, 2009

MOTION FOR RULE ON CLERK

DISMISSED WITHOUT PREJUDICE.

PER CURIAM

On July 30, 2009, our clerk correctly refused to file the record in the above matter. The record was due by July 30, 2009, pursuant to the terms of an extension order. The terms of that order failed to comply with Ark. R. App. P.–Civ. 5(b)(1)(C). The failure was communicated to counsel for Appellant. Counsel for Appellant then submitted a Motion for Rule on Clerk on August 5, 2009. On September 10, 2009, by per curiam, we remanded for a determination by the circuit court whether Ark. R. App. P.–Civ. 5 had been followed.

We do not have a return of our remand from the circuit court, but we now have a Second Motion for Rule on Clerk (“Second Motion”) filed on November 4, 2009, by counsel for Appellant. In this Second Motion, counsel recites the history of his effort to obtain two extensions. He also points out that the circuit court has the matter set for hearing on remand.

Whether the record has been tendered timely depends on the pending return from the circuit court. We therefore decline to address the Second Motion as premature.

Dismissed without prejudice.