

In Re: Counsel's Failure to File
Timely Briefs in Criminal Appeals

635 S.W.2d 264

Supreme Court of Arkansas
Opinion delivered June 28, 1982

APPEAL & ERROR — FAILURE TO FILE BRIEFS ON TIME IN CRIMINAL APPEALS — ADMISSION OF ERROR BY ATTORNEY CONSTITUTES GOOD CAUSE FOR GRANTING MOTION FOR EXTENSION OF TIME. — When a brief is not filed on time in a criminal appeal and the attorney admits that the failure to timely file was his fault, the Supreme Court will permit the brief to be filed, publish a per curiam order giving the name of the lawyer, and send a copy thereof to the Committee on Professional Conduct, to be kept in its files for the Committee's information if a complaint of any kind should later be filed against that lawyer.

Motion for extension of time to file brief; motion granted.

Ron Heller, for appellant.

Steve Clark, Atty. Gen., for appellee.

PER CURIAM. In *Rector v. State*, No. CR 82-36, the appellant's brief was not filed when due. His attorney, Ron Heller, obtained two extensions of time and in each instance failed to file the brief. A third request for an extension was denied, for want of any showing of good cause.

Mr. Heller has now filed another motion, stating that he has not been properly diligent, admitting that the complete fault is his, and asking that the court allow the brief to be filed out of time. To deny this motion would as a practical matter establish ineffective assistance of counsel. In accordance with our practice in the corresponding situation when the record is not filed on time owing to the fault of counsel, see Per Curiam order of February 5, 1979, 265 Ark. 964, we shall in this case and similar later cases permit the brief to be filed, publish a per curiam order giving the name of the lawyer, and send a copy to the Committee on Professional Conduct, to be kept in its files for the Committee's information if a complaint of any kind should later be filed against that lawyer.
