

Patricia Ann BURRIS *v.* Dennis William BURRIS

643 S.W.2d 570

Supreme Court of Arkansas
Opinion delivered December 20, 1982

APPEAL & ERROR — FAILURE TO FILE NOTICE OF APPEAL IS JURISDICTIONAL. — The rule of unavoidable casualty applies to the lodging of the record on appeal and *not* to the failure to file Notice of Appeal, the latter being jurisdictional.

Petition for Reconsideration of Motion for Rule on Clerk to Lodge Transcript; motion denied.

William B. Howard, for appellant.

No response for appellee.

PER CURIAM. Appellant has petitioned for reconsideration of her motion for rule on the clerk to lodge the transcript. The record was refused by the clerk, and appellant's motion for a rule denied by us, because Notice of Appeal was not timely filed. Appellant urges that we treat the failure as an unavoidable casualty, which we have done on occasion when the record was unavoidably tendered out of time. However, the rule of unavoidable casualty applies to the lodging of the record on appeal and *not* to the failure to file Notice of Appeal, the latter being jurisdictional. *City of Hot Springs v. McGeorge Contracting Company, Inc.*, 260 Ark. 636, 543 S.W.2d 475 (1976) and *Ward v. Universal C.I.T. Credit Corp.*, 228 Ark. 275, 307 S.W.2d 73 (1957).
