

Wayne DUNCAN v. STATE of Arkansas

731 S.W.2d 784

Supreme Court of Arkansas
Opinion delivered July 6, 1987

APPEAL & ERROR — MOTION FOR RULE ON THE CLERK — GOOD CAUSE FOR GRANTING. — After reviewing counsel's motion with attached affidavits and the record, the court found that the error, admittedly made by the attorney for a criminal defendant, is good cause to grant the motion for rule on the clerk.

Motion for Rule on the Clerk; granted.

Wayne Emmons, for appellant.

No response.

PER CURIAM. Petitioner, Wayne Duncan, by his attorney, Wayne Emmons, has filed a motion for rule on the clerk. His attorney admits he failed to tender the record within the time constraints required under Rule 5 of the Arkansas Rules of Appellate Procedure, due to oversight plus on-going negotiations with the prosecuting attorney. On June 5, 1987, the trial court held a hearing pursuant to our per curiam in this cause dated February 23, 1987.

[1] Upon our review of counsel's motion with attached affidavit and the record submitted herein, we find that the error, admittedly made by the attorney for a criminal defendant, is good cause to grant the motion. *See per curiam* dated February 5, 1979, 265 Ark. 964; *Terry v. State*, 272 Ark. 243 (1981).

A copy of this opinion will be forwarded to the Committee on Professional Conduct. *In re: Belated Appeals in Criminal Cases*, 265 Ark. 964 (1979).

DUDLEY, J., would deny.
