

Cite as 2011 Ark. 225

SUPREME COURT OF ARKANSAS

No. CR10-1304

LESA DIANE MENNE,
APPELLANT,

VS.

STATE OF ARKANSAS,
APPELLEE,

Opinion Delivered May 19, 2011

MOTION TO FILE BELATED BRIEF

GRANTED.

PER CURIAM

Appellant Lesa Diane Menne, by and through her attorney, Richard Jarboe, moves this court to file a belated supplemental response brief. On January 20, 2011, this court granted a petition for review filed by the State of Arkansas, the appellee. The State then filed a motion to file a supplemental brief which was granted on February 3, 2011. The State's supplemental brief was filed on February 22, 2011. Menne untimely tendered her supplemental response brief to this court's clerk on March 9, 2011. Her brief was due on March 4, 2011, pursuant to Ark. Sup. Ct. R. 2-4(f).

We will accept a criminal appellant's belated responsive brief; however, good cause must be shown to grant the motion. *See, e.g., Strom v. State*, 356 Ark. 224, 147 S.W.3d 689 (2004). We have held that an appellate counsel's admitted failure to timely file a brief constitutes good cause to grant an appellant's motion for a belated brief. *See id.* While Mr. Jarboe does not admit fault, his fault is clear from the record and constitutes good cause. *See,*

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e.g., *Young v. State*, 372 Ark. 219, 272 S.W.3d 109 (2008) (per curiam). Accordingly, we grant the instant motion and refer the matter to the Committee on Professional Conduct.

Motion granted.

HENRY, J., not participating.