

Ronald PORTER v. STATE of Arkansas

CR 93-1158

865 S.W.2d 300

Supreme Court of Arkansas

Opinion delivered November 15, 1993

1. APPEAL & ERROR — RULE ON MOTIONS FOR RULE ON THE CLERK APPLIES ONLY TO BELATED APPEALS NOT PETITIONS FOR BELATED REVIEW — GOOD CAUSE FOR GRANTING PERMISSION TO FILE A BELATED PETITION FOR REVIEW. — Ark. Sup. Ct. R. 2-2 provides for belated appeals, not belated reviews of decisions of the court of appeals;

however, an admission by motion of an attorney for a criminal defendant that the petition for review was tendered late due to a mistake on his part in calculating the due date was good cause to grant permission to file a belated petition for review.

Motion for Rule on the Clerk; granted.

Cross, Kearney & McKissic, by: *Jessie L. Kearney*, for appellant.

No response.

PER CURIAM. Ronald Porter, by his attorney, has filed a motion for a rule on the clerk requesting permission to file an untimely petition for review. Because our rule on motions for rule on clerk, Ark. Sup. Ct. R. 2-2, provides for belated appeals rather than belated review of decisions of the court of appeals, we treat the motion as a petition for belated review.

[1] In this criminal case, the movant's convictions were affirmed by the court of appeals on September 22, 1993. *Porter v. State*, 43 Ark. App. 110, 861 S.W.2d 122 (1993). Porter wished to seek a review by this court. However, Porter's attorney, Jesse L. Kearney, admits by motion that the petition for review was tendered late due to a mistake on his part in calculating the due date.

We find that such an error, admittedly made by the attorney for a criminal defendant, is good cause to grant permission to file a belated petition for review. *See Colyer v. State*, 280 Ark. 336, 657 S.W.2d 548 (1983) (per curiam).

The request to file a belated petition for review is therefore granted, and a period of 17 days is allowed for the filing of the petition for review. A copy of this order will be sent to the Committee on Professional Conduct.