

Reversed and dismissed.

CORBIN and BROWN, JJ., and TED DRAKE, KANEASTER HODGES and IKE ALLEN LAWS, Special Justices, join.

DARRELL BROWN, Special Justice, not participating in the final vote and the opinion.

HOLT, C.J., and DUDLEY, HAYS, NEWBERN, and GLAZE, JJ., not participating.

Larry Dale BAXTER v. STATE of Arkansas

CR 93-1098

878 S.W.2d 377

Supreme Court of Arkansas
Opinion delivered June 6, 1994

Motion to Accept a Belated Return of Writ of Certiorari; denied.

A. *Wayne Davis*, for appellant.

No response.

PER CURIAM. Appellant's motion to accept belated return of writ is denied.

ROBERT L. BROWN, Justice, dissenting. Appellant Larry Dale Baxter was five days late in filing his supplemental record. That record was prepared to support his constitutional point that a disparity exists in the disposition of drug offenses. We granted him leave to file the supplement.

The majority denies the motion which is in reality a motion for rule on the clerk to file a late transcript because the appellant missed the deadline. We routinely, however, grant these motions to file late transcripts in criminal cases when an attorney admits fault, and we notify the Committee on Professional Conduct. *See In Re: Belated Appeals in Criminal Cases*, 265 Ark. 964 (1979) (per curiam). The reason for doing this is that

otherwise the appellant will be in a position to obtain a belated appeal due to ineffective counsel. *Id.* I see no reason to deviate from that practice in this case merely because a supplemental record is involved. The motion should be granted in accordance with our 1979 per curiam.
