

Robert L. ROCKETT III, et al. v. STATE of Arkansas  
CR 94-578 877 S.W.2d 593

Supreme Court of Arkansas  
Opinion delivered June 27, 1994

APPEAL & ERROR — MOTION FOR RULE ON THE CLERK — ATTORNEY DID NOT ADMIT FAULT — MOTION DENIED. — The motion contended that the record was not timely filed, and the appellants should not be prejudiced, whether it was caused by clerical error or negligence of the appellants' attorney, but their attorney did not admit fault or error in the delay of filing the record, the motion was denied; it is an attorney's duty to file the record on time.

Motion for Rule on the Clerk denied.

*Joe Kelly Hardin*, for appellant.

No response.

PER CURIAM. Appellants, Robert Rockett and Terrick Nooner, by their attorney Joe Kelly Hardin, have filed a motion for a Rule on the Clerk. The motion contends that the record in their trial was not timely filed, and the appellants should not be prejudiced, whether it was caused by clerical error or negligence of the appellants' attorney. Their attorney does not admit fault or error in the delay of filing the record, and we deny the motion.

[1] It is an attorney's duty to file the record on time. In

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<sup>1</sup>The *Reed* case refers to Supreme Court Rule 11(h) which was this court's rule respecting cases filed pursuant to *Anders* until Rule 4-3(j) replaced it May 1, 1993. In all pertinent respects, Rule 4-3(j) is identical to Rule 11(h).

this case the record was late because an order of extension was not entered before the period for filing the record had expired. See Ark. R. App. P. 5. If the attorney will concede by affidavit that it was his fault that the record was not filed on time, or if other good cause is shown, then the motion will be granted. *Harkness v. State*, 264 Ark. 561, 572 S.W.2d 835 (1978).

Mr. Hardin is given 30 days from issuance of this order to respond. If no response is received within that time, the motion will be granted and a copy of an order granting the motion will be forwarded to the Professional Conduct Committee.

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