

Christopher Ray STONE v. STATE of Arkansas

CR 94-61

890 S.W.2d 257

Supreme Court of Arkansas
Opinion delivered December 20, 1994

1. ATTORNEY & CLIENT — NEW ATTORNEY APPOINTED TO REPRESENT APPELLANT ON APPEAL — EXTENSION OF TIME GRANTED FOR THE FILING OF APPELLANT'S BRIEF. — Where the attorney was contacted with regard to representing appellant on appeal, he was familiar with appellant's case, and he had no objection to acting as appellant's counsel for the appeal so long as he was granted a 60-day extension in which to file appellant's brief, he was so appointed and was granted a 60-day extension in which to file appellant's brief.
2. ATTORNEY & CLIENT — EXISTING COUNSEL FAILED TO TIMELY FILE BRIEF, EVEN AFTER FINAL EXTENSION — SHOW CAUSE HEARING SET. — Where the appellant's existing counsel did not file a brief by December 19, 1994, which was the due date according to the final extension, a hearing was set on Monday, January 2, 1995, at 9:00 a.m. and the attorneys were directed to appear and show cause why they should not be held in contempt for failing to file the brief.

Order to Add Additional Counsel and for Extension of Time to File Brief; Order for Present Counsel to Show Cause.

Frank Shaw and F.N. "Buddy" Troxell, for appellant.

No response.

PER CURIAM. On June 20, 1993, a judgment of conviction was entered against appellant Christopher Ray Stone for first degree murder and a sentence of life imprisonment was imposed. A timely notice of appeal was filed by appellant's trial attorneys,

Frank Shaw and F.N. "Buddy" Troxell. The transcript was lodged with this court on February 21, 1994, and at that time appellant's trial attorneys filed motions to be relieved as attorneys on appeal. Their motions to be relieved and to have substitute counsel appointed were denied. Counsel sought reconsideration of their motions to be relieved but reconsideration was denied.

Appellant's attorneys next sought and obtained an extension of time in which to file the appellant's brief to July 1, 1994. When appellant's attorneys did not file the brief by that time, the State filed a motion to dismiss the appeal for failure to file a brief. A response to the motion to dismiss was filed on September 27, 1994, by F.N. "Buddy" Troxell on appellant's behalf. Counsel also filed another motion for extension of time to file belated brief. By order entered October 10, 1994, this court denied the motion to dismiss appeal and granted the second motion for extension of time to file belated brief, extending the time to December 19, 1994. The order indicated that this was a final extension.

Ray Hartenstein has been contacted with regard to representing appellant on appeal, and he is familiar with appellant's case, as he assisted appellant's attorneys at trial. He has no objection to acting as appellant's counsel for this appeal so long as he is granted a 60-day extension in which to file appellant's brief.

[1] Ray Hartenstein is added as counsel for appellant on this appeal and is granted a 60-day extension in which to file appellant's brief in this matter.

[2] Because existing counsel, F.N. "Buddy" Troxell and Frank Shaw, did not file a brief by December 19, 1994, which was the due date according to the final extension, we set a hearing date on Monday, January 2, 1995, at 9:00 a.m. and direct F.N. "Buddy" Troxell and Frank Shaw to appear and show cause why they should not be held in contempt for failing to file the brief in this case.