

Carl STEWART v. STATE of Arkansas

CR 94-1068

889 S.W.2d 771

Supreme Court of Arkansas
Opinion delivered January 9, 1995

1. APPEAL & ERROR — ACCEPTANCE OF CRIMINAL APPELLANT'S BELATED BRIEF. — The court will accept a criminal appellant's belated brief to prevent an appeal being aborted.
2. APPEAL & ERROR — BRIEF NOT TIMELY FILED — ATTORNEY'S FAILURE TO STATE A GOOD CAUSE TREATED AS AN ADMISSION OF FAULT. — Where the appellant's attorney apologized for failing to meet the deadline, but did not admit fault, the court treated his failure to state a good cause for the lateness of the brief as an admission of fault; the motion to file a belated brief was granted.

Motion to File Belated Brief; granted.

Hugh Finkelstein, for appellant.

No response.

PER CURIAM. Carl Stewart, by his counsel Hugh Finkelstein, asks to file a belated brief in his appeal of a criminal conviction. The brief was due December 12, 1994. It was tendered December 15, 1994. Mr. Finkelstein offers a litany of reasons, all of which amount to nothing more than saying he put off "finalizing" the brief until the last day when his schedule went awry. Although he says the delay was due to circumstances beyond his control, the facts he states show only mismanagement and failure to anticipate possible variances in court scheduling of unrelated matters in which he was involved after waiting until the last day to file the brief.

[1, 2] We will accept a criminal appellant's belated brief to prevent an appeal being aborted. *Hallman v. State*, 287 Ark. 391, 698 S.W.2d 803 (1985). Although Mr. Finkelstein apologizes for failing to meet the deadline, he does not admit fault. We will, however, treat his failure to state good cause as an admission of fault and forward a copy of this opinion to the Committee on Professional Conduct. *Anderson v. State*, 277 Ark. 391, 641 S.W.2d 715 (1982).

Motion granted.