

Jimmy L. KING v. STATE of Arkansas

CR 95-884

906 S.W.2d 306

Supreme Court of Arkansas
Opinion delivered September 25, 1995

APPEAL & ERROR — MOTION FOR BELATED APPEAL GRANTED — COUNSEL ADMITTED FAULT — GOOD CAUSE SHOWN. — Where counsel acknowledged that the filing of appellant's notice of appeal was untimely and assumed full responsibility for the error, the supreme court granted a belated appeal; the failure of counsel to perfect an appeal in a criminal case constitutes a denial of effective assistance of counsel and is good cause for granting a belated appeal.

Belated appeal granted.

Thomas A. Potter, for appellant.

No response.

PER CURIAM. Jimmy L. King moves for a rule on the clerk to file the record in his appeal. In the circumstances presented, we treat the motion as one for a belated appeal. The record has been refused because the notice of appeal was not filed in a timely manner. It was more than 30 days after a new trial motion was deemed denied pursuant to Ark. R. App. P. 4(c).

[1] Mr. King's counsel Thomas A. Potter acknowledges that the notice of appeal was untimely and by affidavit he assumes full responsibility for the error. The failure of counsel to perfect an appeal in a criminal case constitutes a denial of effective assistance of counsel and is good cause for granting a belated appeal. *Gay v. State*, 288 Ark. 589, 707 S.W.2d 320 (1986). A copy of this opinion will be forwarded to the Committee on Professional Conduct.