

Roger ROSS *v.* STATE of Arkansas

CR. 01-859

53 S.W.3d 519

Supreme Court of Arkansas
Opinion delivered September 6, 2001

1. APPEAL & ERROR — MOTION FOR BELATED APPEAL MUST BE FILED IN SUPREME COURT — TRIAL COURT'S ORDER GRANTING HAD NO EFFECT. — Pursuant to Ark. R. App. P.—Crim. 2(e), all motions for belated appeal must be filed in the supreme court, not the trial court; accordingly, the trial court's order granting belated appeal had no effect.
2. APPEAL & ERROR — MOTION FOR BELATED APPEAL — GOOD CAUSE FOR GRANTING. — Where appellant's counsel had accepted complete responsibility for failing to file the notice of appeal on time, the supreme court found that such error, admittedly made by the attorney for a criminal defendant, is good cause to grant a motion for belated appeal.

Motion for Belated Appeal; granted.

Wright & Van Noy, by: *Herbert T. Wright, Jr.*, for appellant.

No response.

PER CURIAM. [1] Appellant Roger Ross, by and through his attorney, Herbert T. Wright Jr., has filed a motion for belated appeal. The record reflects that Appellant was convicted of several felony drug offenses following a bench trial on September 5, 2000. Appellant was sentenced on December 18, 2000, and the judgment and commitment order was filed on January 3, 2001. On April 6, 2001, Appellant filed a motion for belated appeal in the trial court. The motion was granted by the trial judge on April 9, and the notice of appeal was filed that same date. Pursuant to Ark. R. App. P.—Crim. 2(e), however, all motions for belated appeal must be filed in the Supreme Court, not the trial court. *See also Gray v. State*, 277 Ark. 442, 642 S.W.2d 306 (1982); *Hamman v. State*, 270 Ark. 307, 605 S.W.2d 6 (1980). Accordingly, the trial court's order granting belated appeal had no effect.

[2] Appellant now seeks permission to file a belated appeal from this court. Counsel has accepted complete responsibility for failing to file the notice of appeal on time. We find that such error, admittedly made by the attorney for a criminal defendant, is good cause to grant the motion. *See Jacks v. State*, 344 Ark. 405, 39 S.W.3d 459 (2001) (*per curiam*); *Donald v. State*, 341 Ark. 803, 20 S.W.3d 331 (2000) (*per curiam*); *Harkness v. State*, 264 Ark. 561, 572 S.W.2d 835 (1978).

The motion for belated appeal is, therefore, granted. A copy of this opinion will be forwarded to the Committee on Professional Conduct. *See In Re: Belated Appeals in Criminal Cases*, 265 Ark. 964 (1979) (*per curiam*).