

Jimmy Don WOOTEN *v.* STATE of Arkansas

CR 01-986

64 S.W.3d 708

Supreme Court of Arkansas
Opinion delivered January 10, 2002

MOTIONS — RULE ON CLERK — GOOD CAUSE FOR GRANTING. — An admission by an attorney for a criminal defendant that the record was tendered late due to a mistake on his part is good cause to grant a motion for rule on the clerk.

Motion for Rule on Clerk; granted.

Alvin Schay, for appellant.

No response.

PER CURIAM. Appellant, Jimmy Don Wooten, by and through his attorney, Alvin Schay, has filed a motion for belated appeal, which will be treated as a motion for rule on the clerk. Appellant's attorney states in the motion that he was appointed to represent appellant in a Rule 37 appeal in a capital case, and the original due date for the abstract and brief was November 13, 2001. He obtained a thirty-day extension to December 13, 2001; and, although he intended to seek another thirty-day extension, he failed to do so by December 13, 2001.

[1] Mr. Schay admits in the instant motion that the record was tendered late due to a mistake on his part. We find that such an error, admittedly made by the attorney for a criminal defendant, is good cause to grant the motion. See *In Re Belated Appeals In Criminal Cases*, 265 Ark. 964 (1979) (*per curiam*). Accordingly, we grant the motion for rule on the clerk. A copy of this opinion will be forwarded to the Committee on Professional Conduct. *Id.*

IMBER, J., not participating.