

Charles Anthony MARTIN *v.* STATE of Arkansas

CR 01-1072

64 S.W.3d 755

Supreme Court of Arkansas
Opinion delivered January 31, 2002

APPEAL & ERROR — MOTION FOR CLARIFICATION — MOTION FOR BELATED APPEAL GRANTED. — Where, on remand to the trial court to settle the record, the trial court concluded that appellant had directed his attorney to file a motion for belated appeal, but his counsel failed to do so in violation of Ark. R. App. P.—Crim. 16, the supreme court, on resubmission of the motion for belated appeal, granted the motion.

Motion for Clarification; motion for belated appeal granted.

Wilson & Associates, P.L.L.C., by: *Patrick J. Benca*, for appellant.

No response.

PER CURIAM. On October 2, 2001, petitioner Charles Martin moved to file a belated appeal, and, on October 25, 2001, this court issued a *per curiam* remanding this case to the trial court to settle the record in order to determine whether Martin had requested his then attorney, Dale Finley, to file a notice of appeal. The trial court complied with our *per curiam* on November 27, 2001, and the trial court's order was subsequently filed with our clerk's office on December 5, 2001. The trial court concluded that Martin had directed Finley to file a motion, but Finley failed to do so in violation of Rule 16 of the Rules of Appellate Procedure—Criminal.

[1] On January 2, 2000, Martin's motion for belated appeal was resubmitted, but, because the court was not apprised of the trial court's November 27, 2001, order settling the record, we requested compliance with the October 25, 2001, be done. Now, being knowledgeable of the trial court's order settling the record, we grant Martin's motion for belated appeal. We also refer the matter concerning Mr. Finley to the Professional Conduct Committee.
