

Warren LOONEY *v.* STATE of Arkansas

CR 01-1308

72 S.W.3d 488

Supreme Court of Arkansas
Opinion delivered April 18, 2002

1. APPEAL & ERROR — MOTION FOR RULE ON CLERK — GOOD CAUSE FOR GRANTING. — An admission by the attorney for a criminal defendant that the record was never filed was due to a mistake on his part is good cause to permit the filing of the full record, when prepared.
2. APPEAL & ERROR — PETITION FOR WRIT OF *CERTIORARI* — GRANTED. — The supreme court granted appellant's petition for a writ of *certiorari* to bring up the balance of the record for his appeal.

Motion for Rule on the Clerk; granted. Petition for Writ of *Certiorari*; granted.

Kenneth G. Fuchs, for appellant.

No response.

PER CURIAM. [1] Appellant Warren Looney previously filed a motion for belated appeal *pro se*, which we treated as a motion for rule on clerk. See *Looney v. State*, 2002 WL 130679 (Jan. 31, 2002) (*per curiam*) (*Looney I*). In *Looney I*, we noted that Mr. Looney's trial counsel, Kenneth G. Fuchs, had filed a notice of appeal on behalf of Mr. Looney, and we directed Mr. Fuchs to admit fault for not perfecting this appeal by filing the full record. Also in *Looney I*, we appointed Mr. Fuchs to represent Mr. Looney because he is indigent. In response to *Looney I*, Mr. Fuchs has now filed an affidavit with this court stating that the fact that the record was never filed was due to a mistake on his part. We find that such an error, admittedly made by an attorney for a criminal defendant, is good cause to permit the filing of the full record, when prepared. See *In Re Belated Appeals in Criminal Cases*, 265 Ark. 964 (1979) (*per curiam*).

[2] Mr. Looney further petitions for a writ of *certiorari* to bring up the balance of the record for his appeal. We grant the

petition and order that the balance of the record be filed within sixty days of the date of this order.

A copy of this opinion will be forwarded to the Committee on Professional Conduct.
