

James BIBBS *v.* STATE of Arkansas

CR 02-684

80 S.W.3d 755

Supreme Court of Arkansas
Opinion delivered July 11, 2002

APPEAL & ERROR — MOTION TO FILE BELATED APPEAL — REMANDED.

— Where new counsel filed a motion for belated appeal, the supreme court remanded the matter to the trial court for a hearing to determine whether appellant had requested his trial counsel to file an appeal.

Motion to File Belated Appeal; remanded.

McCullough Law Firm, by: *R.S. McCullough*, for appellant.

No response.

PER CURIAM. Appellant, James Bibbs was convicted of criminal attempt to commit fraudulent use of a credit card, theft by receiving, and felony possession of a firearm on December 7, 2001. No timely appeal was filed by Mr. Bibbs or his counsel, J. Blake Hendrix. Mr. Bibbs retained new counsel, R.S. McCullough, after the time to file an appeal had expired.

[1] On June 19, 2002, Mr. McCullough filed a motion for belated appeal. We remand this matter to the trial court to conduct a hearing to determine if Mr. Bibbs had requested his trial counsel, J. Blake Hendrix, to file an appeal, and direct the trial court to make its findings and remand them to this court within thirty days. *See Sanders v. State*, 329 Ark. 571, 950 S.W.2d 220 (1997).