

Howard Edward CHISM v. STATE of Arkansas

CR 92-569

834 S.W.2d 155

Supreme Court of Arkansas  
Opinion delivered July 20, 1992

APPEAL & ERROR — RULE ON THE CLERK — DENIED — NOTICE OF APPEAL FILED EARLY — NO VALID GROUND FOR BELATED APPEAL FILED. — Where appellant's notice of appeal was ineffective under Ark. R. App. P. 4 because it was filed before the trial court ruled on his motion for new trial and his motion for belated appeal did not state a valid ground for a belated appeal, appellant's motion for rule on the clerk was denied; it is an attorney's duty to give a timely notice of appeal.

Motion for Rule on the Clerk; denied.

*Denny Hyslip*, for appellant.

No response.

[1] PER CURIAM. The appellant, Harold Edward Chism, filed a motion in this court for a Rule on the Clerk. It was denied because he gave his notice of appeal before the trial court ruled on his motion for a new trial. Rule 4 of the Rules of Appellate Procedure provides, in part: "A notice of appeal filed before the disposition of any motion . . . shall have no effect." He now files a motion for a belated appeal, but does not state a valid ground for a belated appeal. Thus we deny the motion.

It is an attorney's duty to give a timely notice of appeal. If the attorney for Harold Edward Chism will concede by affidavit that it was his fault that the notice was not timely given the motion will be granted. See per curiam issued February 5, 1979, *In Re: Belated Appeals in Criminal Cases*, 265 Ark. 964.