

Frank GIACONA v. STATE of Arkansas

CR 92-1202

846 S.W.2d 185

Supreme Court of Arkansas
Opinion delivered February 1, 1993

1. APPEAL & ERROR — RULE OF APPELLATE PROCEDURE 4(c) IS APPLICABLE TO CRIMINAL CASES. — Ark. R. App. P. 4(c) is applicable to criminal cases.
2. APPEAL & ERROR — TIME FOR APPEAL WHEN POST-TRIAL MOTIONS ARE FILED. — When post-trial motions are filed, the time for appeal runs from the entry of the order granting or denying the motion, provided that if the trial court neither grants nor denies the motion within thirty days of its filing, the motion will be deemed denied as of the 30th day.

Petition for Review; denied.

Craig Lambert, for appellant.

Winston Bryant, Att'y Gen., by: *Sandy Moll*, Asst. Att'y Gen., for appellee.

PER CURIAM. Appellant was convicted of a felony. He filed a motion for a new trial. The trial court did not rule on the motion within thirty days, and appellant did not give a notice of appeal at that time. Some months later the trial court denied the motion, and appellant gave notice of appeal within thirty days of the ruling. The court of appeals dismissed the appeal for failure to give a timely notice of appeal. *Giacona v. State*, 39 Ark. App. 101, 839 S.W.2d 228 (1992). Appellant has filed a petition for review in this court.

[1, 2] We deny the petition for review, but take this opportunity to repeat that Arkansas Rule of Appellate Procedure 4(c) applies to criminal cases. It provides that when post-trial motions are filed, the time for appeal runs from the entry of the order granting or denying the motion, provided "*that if the trial court neither grants nor denies the motion within thirty (30) days of its filing, the motion will be deemed denied as of the 30th day.*" (Emphasis added.)