
Melton SMITH *v* STATE of Arkansas

CR 05-348

213 S W 3d 2

Supreme Court of Arkansas
Opinion delivered September 15, 2005

APPEAL & ERROR — FAILURE TO FILE TIMELY BRIEF — BELATED BRIEF TENDERED BUT REJECTED FOR DEFECTS — COPY OF OPINION SENT TO THE PROFESSIONAL CONDUCT COMMITTEE. — Where appellant's counsel received a forty-five-day extension to file his brief, on the last day of that extension he requested another extension and learned the earlier extension was a final one, then he filed a motion to file a belated brief and tendered a defective brief that was rejected, his motion was granted but a copy of the opinion was forwarded to the Committee on Professional Conduct

Motion for Leave to File Belated Brief; granted

Cross, Kearney & McKissic, PLLC. by: *Jesse L. Kearney*, for appellant.

No response.

PER CURIAM. [1] Appellant is represented in this appeal by *Jesse L. Kearney*. The original deadline to file appellant's brief was May 9, 2005. Counsel requested and received a forty-five day extension to file the brief, up to and including June 23, 2005. On June 23, 2005, appellant attempted to file another motion for an extension of time to file the brief, but he was informed that the earlier extension was a final one, and that he should instead file a motion to file belated brief. He attempted to file appellant's brief, along with this motion, on July 11, 2005. The brief was tendered, but rejected by our Supreme Court Clerk, because it was belated and it was deficient in the following respects: (1) it did not conform to the requirements of Ark. Sup. Ct. R. 4-2; (2) there was no reference to the abstract and/or Addendum in the statement of the case or argument; (3) there was no reference to the record in the index of Addendum; (4) it was numbered incorrectly, (5) witnesses were not listed in the table of contents; (5) pleadings were abstracted, and (6) it contained no Addendum

The motion to file belated brief is granted. Appellant has fifteen days from the date of this *per curiam* to file a substituted brief in compliance with the rules of this court.

A copy of this *per curiam* is forwarded to the Committee on Professional Conduct.
