

Johnny Dean JOHNSON *v.* STATE of Arkansas

CR 03-487

139 S.W.3d 520

Supreme Court of Arkansas
Opinion delivered December 18, 2003

APPEAL & ERROR — MOTION TO REINSTATE APPEAL & TO EXTEND TIME TO FILE BRIEF — GRANTED BUT DILATORINESS NOTED. — Although the supreme court was of the opinion that appellant's counsel had been dilatory in prosecuting the appeal, the court granted appellant's motion to reinstate his appeal and extended the time to file his brief.

Motion to Reinstate or Allow Appeal and/or to Extend the Time to File Brief; granted.

J. Russell Green, for appellant.

No response.

PER CURIAM. Appellant, Johnny Dean Johnson, by his counsel, J. Russell Green, filed a motion to reinstate or allow his appeal and to extend the time to file his brief. Following a trial and judgment of conviction in circuit court, counsel for appellant timely filed appellant's notice of appeal and timely lodged the record in this court on May 1, 2003. Appellant's counsel next filed a motion to withdraw, which was denied by this court on May 22, 2003. Appellant's brief was due on June 10, 2003. It was not filed by that deadline. On July 7, 2003, the State filed a motion to dismiss appellant's appeal for failure to file a brief, which this court granted on September 4, 2003. On November 14, 2003, counsel for appellant filed this motion and admitted in his affidavit that failure to file appellant's brief was solely his fault.

[1] This court is of the opinion that appellant's counsel has been dilatory in prosecuting this appeal. Nevertheless, we grant appellant's motion to reinstate his appeal, and we extend the time to file his brief. We further order that appellant's brief be filed no later than fifteen days from the date of this *per curiam* opinion. A copy of this opinion shall be forwarded to the Committee on Professional Conduct.