

Darren WOODRUFF *v.* STATE of Arkansas

CR 96-90

916 S.W.2d 104

Supreme Court of Arkansas
Opinion delivered February 12, 1996APPEAL & ERROR — MOTION FOR RULE ON CLERK TREATED AS
MOTION FOR BELATED APPEAL — GOOD CAUSE FOR GRANTING.

— Where the Clerk refused to docket the record because the notice of appeal was late, the supreme court treated the motion for rule on the clerk as a motion for belated appeal; failure to counsel to perfect an appeal for a defendant who wishes to appeal constitutes ineffective assistance of counsel, and good cause for granting a belated appeal pursuant to Ark. R. Crim. P. 36.9(e); the motion was granted.

Motion for Belated Appeal; granted.

Maxie G. Kizer, for appellant.

No response.

PER CURIAM. Appellant, Darren Woodruff, by his attorney, Maxie G. Kizer, has filed a motion for rule on the clerk. The Clerk refused to docket the record concerning Mr. Woodruff's conviction because it revealed that the notice of appeal was late. We treat the motion for rule on the clerk as a motion for belated appeal in this circumstance.

[1] Failure of counsel to perfect an appeal for a defendant who wishes to appeal constitutes ineffective assistance of counsel, and good cause for granting a belated appeal pursuant to Ark. R. Crim. P. 36.9(e).

A copy of this opinion will be sent to the Committee on Professional Conduct.