

David E. LOONEY *v.* BANK of WEST MEMPHIS;
Kay Raby, Assignee

07-49

253 S.W.3d 463

Supreme Court of Arkansas
Opinion delivered March 15, 2007

APPEAL & ERROR — MOTION FOR RULE ON CLERK — GRANTED WHERE EXTENSION ORDER WAS IN COMPLIANCE WITH RULE 5(b)(1). — This case had been remanded to the trial court for compliance with Arkansas Rule of Appellate Procedure – Civil 5(b)(1); since appellant had timely filed the record with the clerk and the extension order was brought into compliance with Rule 5(b)(1), the motion for rule on clerk was granted.

Motion for Rule on Clerk, granted.

Butler Hicky & Harris, by: *Andrea W. Brock*, for appellant.

Rieves, Rubens & Mayton, by: *Kent Jay Rubens*, for appellee.

PER CURIAM. Appellant David E. Looney, by and through his attorneys, Butler Hicky & Harris, has resubmitted a motion for rule on clerk to file the record and have his appeal docketed. Appellant had previously filed a motion for rule on clerk after the clerk refused to docket his appeal and would not accept the record due to a failure to comply with Arkansas Rule of Appellate Procedure – Civil 5(b)(1). On February 1, 2007, we remanded the case to the trial court for compliance with Rule 5(b)(1). See *Looney v. Bank of West Memphis*, 368 Ark. 639, 249 S.W.3d 126 (2007) (per curiam).

[1] On March 5, 2007, the trial court issued an order for the purposes of strictly complying with the requirements of Rule 5(b)(1) and stated that the order should relate back to its October 11, 2006 order granting an extension of time to file the record to January 12, 2007. Since Appellant had timely filed the record in this matter with the clerk on January 11, 2007, and the extension order is now in compliance with Rule 5(b)(1), the motion is granted. Our clerk is directed to accept the record and docket the appeal.

Motion for rule on clerk granted.