

James STUDIE *v.* Ruth Lavern CORBIN

07-144

252 S.W.3d 136

Supreme Court of Arkansas  
Opinion delivered March 8, 2007

APPEAL & ERROR — MOTION FOR RULE ON CLERK — REMANDED FOR LACK OF COMPLIANCE WITH RULE 5(b). — Because the circuit court's order of extension in this case made no reference to its findings as required under Ark. R. App. P. – Civ. 5(b)(1)(C), the matter was remanded to the circuit judge for compliance with Rule 5(b)(1)(C).

Motion for Rule on Clerk; remanded.

*Donald C. Donner*, for appellant.

*Eddie N. Christian*, for appellee.

**P**ER CURIAM. Appellant James Studie filed a motion for rule on clerk seeking an order of this court directing the Arkansas Supreme Court Clerk to accept his record for filing. Appellant attempted to file his record and transcript on February 5, 2006, under an extension of time granted by the circuit court, pursuant to Ark. R. App. P. – Civ. 5(b), on November 6, 2006. The clerk refused the filing because there was no finding in the order by the circuit court that “[a]ll parties had the opportunity to be heard on the motion, either at a hearing or by responding in writing” as required by Rule 5(b)(1)(C).

[1] Arkansas Rules of Appellate Procedure – Civil 5(b)(1)(C) provides in part:

(b) *Extension of time.*

(1) If any party has designated stenographically reported material for inclusion in the record on appeal, the circuit court, by order entered before expiration of the period . . . may extend the time for filing the record only if it makes the following findings:

. . . .

(C) All parties have had the opportunity to be heard on the motion, either at a hearing or by responding in writing[.]

This court has made it very clear that we expect strict compliance with the requirements of Rule 5(b), and that we do not view the granting of an extension as a mere formality. *See, e.g., Keesee v. Keesee*, 367 Ark. 416, 240 S.W.3d 573 (2006) (per curiam); *Woods v. Tapper*, 367 Ark. 239, 238 S.W.3d 929 (2006) (per curiam). The order of extension in this case makes no reference to the findings of the circuit court required under Rule 5(b)(1)(C). Accordingly, we remand this matter to the circuit judge for compliance with Rule 5(b)(1)(C).

Remanded.