

NATIONAL LIABILITY & FIRE INSURANCE COMPANY *v.*  
CALHOUN COUNTY BANK d/b/a First Bank of South Arkansas

07-696

261 S.W.3d 453

Supreme Court of Arkansas  
Opinion delivered September 6, 2007

APPEAL & ERROR — MOTION FOR RULE ON CLERK. — Where the circuit court's order extending the time to file the record was not filed with the circuit clerk until after the ninety-day deadline for filing the record, and where the attorney failed in his responsibility to monitor the filing prior to the deadline, the supreme court clerk was correct in refusing to docket the appeal, and the motion for rule on clerk was denied.

Motion for Rule on Clerk; denied.

*Niki Trang Cung*, for appellant.

*Paul E. Lindsey*, for appellee.

**P**ER CURIAM. Appellant, National Liability & Fire Insurance Company, filed a motion for rule on clerk seeking an order of this court directing the Arkansas Supreme Court Clerk to accept the record for filing.

Judgment was entered in this case on December 29, 2006, and a timely notice of appeal was filed on January 26, 2007. Because the record could not be completed before the expiration of ninety days from the date the notice of appeal was filed, a motion for extension of time to file the record was filed in the circuit court on April 17, 2007. The circuit judge granted the motion, signed the order on April 17, 2007, and extended the time to file the record by sixty days, making it due on June 25, 2007. However, the extension order was not sent to the circuit court clerk for filing until June 20, 2007. Appellant's record was received by the supreme court clerk's office on June 20, 2007, the clerk refused to accept it as being untimely, and appellant's attorney was advised to file this motion for rule on clerk.

[1] The circuit court's order extending the time was not filed with the circuit clerk until June 20, 2007, after the ninety-day deadline for filing the record. It was the attorney's responsibility to

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monitor the filing prior to the deadline, and the attorney failed to do so in this case. Therefore, the supreme court clerk was correct in refusing to docket the appeal, and the motion for rule on clerk is denied. *Davis v. Williamson*, 353 Ark. 225, 114 S.W.3d 216 (2003). The case shall be stricken from the docket, the jurisdiction of the court terminated, and the filing fee forfeited. Ark. Sup. Ct. R. 2-2(d).

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