

Richard BROWN v. STATE of Arkansas

CR 08-127

284 S.W.3d 481

Supreme Court of Arkansas
Opinion delivered May 15, 2008

APPEAL & ERROR — ATTORNEY ACKNOWLEDGED FAULT — MOTION GRANTED. — Where appellant was convicted of first degree murder and sentenced to a term of imprisonment for life, and appellant's attorney acknowledged his own fault in failing to timely file his brief, the supreme court granted appellant's motion to file belated brief.

Motion to File Belated Brief; granted.

David O. Bowden, for appellant.

No response.

PER CURIAM. Appellant, Richard Brown, by and through his attorney, David O. Bowden, moves this court to file a belated brief. After a final extension, Brown's brief was due on April 23, 2008. On April 22, 2008, Brown timely filed a motion to extend the time in which to file his brief, which we denied on April 23, 2008. He then submitted a motion to file a belated brief on April 28, 2008. On May 7, 2008, Brown tendered his brief to this court's clerk, at which time he also filed an amended and supplemented copy of his motion to file a belated brief.

We will accept a criminal appellant's belated brief to prevent an appeal from being aborted. *Wertz v. State*, 373 Ark. 260, 284 S.W.3d 481 (2008) (citing *Stewart v. State*, 319 Ark. 242, 889 S.W.2d 771 (1995)). However, good cause must be shown to grant the motion. *Id.* (citing *Strom v. State*, 356 Ark. 224, 147 S.W.3d 689 (2004) (per curiam) (holding that appellate counsel's admitted failure to timely file the brief constituted good cause to grant motion for belated brief)).

[1] Here, Mr. Bowden states in the motion that his client, Richard Brown, was convicted of first degree murder and sentenced to a term of imprisonment for life. Furthermore, Mr. Bowden acknowledges his own fault in failing to timely file his brief. In line with current precedent, this court grants Brown's

motion to file belated brief, and we refer the matter to the
Committee on Professional Conduct.

Motion granted.
