

Sandra LEWIS *v.* AMCA, INC.
d/b/a Hair Club for Men, and Regis Corporation,
d/b/a Hair Club for Men and Women

08-968

286 S.W.3d 676

Supreme Court of Arkansas
Opinion delivered September 4, 2008

MOTION FOR RULE ON CLERK — RULE REGARDING CLERICAL MISPRISONS DID NOT APPLY — MOTION WAS DENIED. — Because Rule 60(c)(3) of the Arkansas Rules of Civil Procedure applies to misprisions of the circuit clerk and appellant alleged error by the circuit court, the rule did not apply here; the supreme court clerk's office properly rejected the motion to modify as untimely, and the motion for rule on clerk was denied.

Motion for Rule on Clerk; denied.

Morris W. Thompson, for appellant.

No response.

PER CURIAM. Appellant Sandra Lewis seeks a motion for rule on clerk requiring the clerk of this court to accept tender of the record in this case. In the motion, appellant asserts that an order dismissing the case without prejudice was entered by the trial court on March 31, 2006. More than two years later, on May 1, 2008, the trial court denied a motion to modify filed by appellant, which alleged the trial court prematurely dismissed Lewis's case. The trial court entered an order to that effect on May 14, 2008. Appellant filed a notice of appeal from that order and calculated the due date for filing the record with this court as August 13, 2008. The supreme court clerk's office rejected the filing of the record on appeal and noted that the motion to modify was not filed within ninety days of the March 31, 2006 order, as required by Rule 60(a) of the Arkansas Rules of Civil Procedure.

Appellant now argues in her motion for rule on clerk that the circuit court committed an error and entered the order of dismissal prior to the expiration of the 120 days in which the appellant had to serve the defendant below and contends that Rule 60(c)(3) regarding clerical misprisions applies. According to appel-

lant, the clerk of this court should have accepted the record. Alternatively, appellant accepts responsibility for any attorney error that may have caused the late filing of the record.

[1] Because Rule 60(c)(3) applies to misprisions of the circuit clerk and appellant alleges error by the circuit court, the rule does not apply. The supreme court clerk's office properly rejected the motion to modify as untimely. We deny appellant's motion for rule on clerk.
