

Anthony HAMPTON v. STATE of Arkansas

CR 08-1160

288 S.W.3d 643

Supreme Court of Arkansas  
Opinion delivered October 30, 2008

MOTIONS — MOTION FOR BELATED APPEAL — GRANTED WHERE APPELLANT DEMONSTRATED GOOD CAUSE FOR FAILURE TO TIMELY FILE NOTICE OF APPEAL. — Where appellant averred that he never received notice that the circuit court had denied his petition for Rule 37 relief and that he never received a copy of that order, and the State did not respond and thus did not demonstrate that the circuit clerk promptly notified appellant of the court's order, the supreme court held that appellant demonstrated good cause for his failure to file a timely notice of appeal and granted his motion for belated appeal.

Motion for Belated Appeal; granted.

*Clint Miller*, for appellant.

No response.

**P**ER CURIAM. Appellant Anthony Hampton, by and through his attorney Clint Miller, has filed the instant motion for belated appeal from the denial of his petition for postconviction relief pursuant to Arkansas Rule of Criminal Procedure 37. Hampton pleaded guilty to one count of aggravated robbery and one

count of theft of property and was sentenced to a term of forty-five years' imprisonment. Hampton subsequently sought and was denied postconviction relief in Pulaski County Circuit Court. Hampton appealed the denial of his petition, and this court, in an unpublished opinion, reversed and remanded the circuit court's order. In remanding the matter, this court ordered the circuit court to enter written findings of fact and conclusions of law as required by Rule 37.3. The circuit court subsequently entered an order again denying Hampton's request for Rule 37 relief on June 6, 2007.

[1] Hampton filed the instant motion on October 3, 2008, therein requesting leave to file a belated appeal. In support of his motion, Hampton has attached an affidavit averring that he never received notice that the circuit court had denied his petition on June 6 and that he never received a copy of that order. The State has not filed a response.

This court addressed an almost identical situation as the present one in *Rutledge v. State*, 355 Ark. 499, 139 S.W.3d 518 (2003) (per curiam), and granted the motion for belated appeal because good cause was established for doing so. There, the appellant averred that he never received notice of the denial of his petition for postconviction relief, and the State was unable to demonstrate that the appellant received prompt notice of the court's order. In the present case, the State has not responded and thus has not demonstrated that the circuit clerk promptly notified Hampton of the court's order. Accordingly, Hampton has demonstrated good cause for his failure to file a timely notice of appeal, and we grant his motion for belated appeal.

Motion granted.