

Mark EDMONDS *v.* STATE of Arkansas

CR 84-23

665 S.W.2d 882

Supreme Court of Arkansas
Opinion delivered March 19, 1984

1. APPEAL & ERROR — TIMELINESS OF NOTICE OF APPEAL — NOTICE FILED BEFORE ENTRY OF JUDGMENT TREATED AS BEING FILED ON DATE JUDGMENT WAS ENTERED. — Notice of appeal must be filed within 30 days from entry of the judgment or decree appealed from, and, if the notice is filed before entry of judgment, it is treated as being filed on the date the judgment was entered; therefore, where the notice of appeal was filed on January 11, 1984, and the judgment was entered on January 13, 1984, the notice of appeal was timely and the trial court had no authority to deny the appeal.

Motion for Writ of Certiorari; motion denied.

Henry N. Means, III, for appellant.

Steve Clark, Atty. Gen., by: *Theodore Holder*, Asst. Atty. Gen., for appellee.

PER CURIAM. Movant has filed a motion for a Writ of Certiorari to the Pulaski County Circuit Clerk commanding that the record of the trial be completed for appeal. The movant was convicted on December 8, 1983. Notice of appeal was filed on January 11, 1984. The judgment was entered on January 13, 1984. Notice of appeal may be given as a matter of right within 30 days from entry of the judgment, decree or order appealed from. Ark. R. App. P., Rule 4 (a); ARCrP, Rule 36.9. Notice of appeal must be filed within 30 days from entry of the judgment, decree or order appealed from. *Caskey v. Pickett*, 272 Ark. 521, 615 S.W.2d 359 (1981); *Orsini v. State*, 281 Ark. 348, 665 S.W.2d 245 (1984). Even if the appeal is filed before entry of judgment it is treated as being filed on the date the judgment was entered. *Caskey v. Pickett*, supra; *Wilhelm v. McLaughlin*, 228 Ark. 582, 309 S.W.2d 203 (1958). Therefore, the notice of appeal was timely and the trial court had no authority to deny the appeal. Time within which to file the record will commence to run on March 19, 1984.