

Keith Dzhon HILLS *v.* STATE of Arkansas

CR 97-540

945 S.W.2d 373

Supreme Court of Arkansas
Opinion delivered June 3, 1997

APPEAL & ERROR — ATTORNEY FAILED TO FILE NOTICE OF APPEAL IN TIMELY MANNER — FAILURE TO TAKE RESPONSIBILITY FOR ERROR RESULTED IN DENIAL OF MOTION FOR BELATED APPEAL. — It is an attorney's duty to file the notice of appeal in a timely manner; where appellant's attorney failed to admit fault on his part but instead placed the blame on a former employee's clerical error, his motion for a belated appeal was denied; a statement that it was someone else's fault or no one's fault will not suffice.

Motion for Belated Appeal; denied.

Ed Webb, for appellant.

No response.

PER CURIAM. Appellant, Keith Dzhon Hills, has filed this Motion for Belated Appeal through his attorney, Ed Webb. On March 8, 1996, Mr. Hills's probation was revoked and he was sentenced to serve three years in the department of correction. He filed an untimely notice of appeal on February 7, 1997.

Mr. Hills has filed a motion for belated appeal to compel the clerk's office to accept the notice of appeal. In his motion, Mr. Hills states the notice of appeal was filed untimely due to a former employee's clerical error in putting the wrong case number on the original notice of appeal.

[1] It is an attorney's duty to file the notice of appeal in a timely manner. In this case, Mr. Webb does not admit fault on his part but instead places the blame on a former employee's clerical error. We have held that a statement that it was someone else's fault or no one's fault will not suffice. *Hicks v. State*, 324 Ark. 450, 921 S.W.2d 604 (1996). Therefore, Mr. Hill's motion must be denied.

The appellant's attorney shall file within thirty days from the date of this per curiam a motion and affidavit in this case accepting full responsibility for not timely filing the notice of appeal, and upon filing same, the motion will be granted and a copy of the opinion will be forwarded to the Committee on Professional Conduct. *Harkness v. State*, 264 Ark. 561, 572 S.W.2d 835 (1978).