

Clarence MIXON *v.* STATE of Arkansas

CR 97-452

945 S.W.2d 383

Supreme Court of Arkansas
Opinion delivered June 9, 1997

APPEAL & ERROR — MOTION FOR BELATED APPEAL — GOOD CAUSE FOR GRANTING. — The submission of an affidavit accepting responsibility for failing to perfect an appeal by the attorney for a criminal defendant is good cause to treat a motion for rule on the clerk as one for belated appeal and to grant the motion.

Motion for Rule on Clerk Treated as Motion for Belated Appeal; granted.

John Stroud III, for appellant.

No response.

PER CURIAM. The appellant, Clarence Mixon, has previously filed a motion for rule on the clerk. *See Mixon v. State*, 328 Ark. 534, 944 S.W.2d 829 (1997). We denied the motion because Mixon's attorney, John Stroud III, had not admitted fault for filing the notice of appeal prior to the entry of the judgment and commitment order. Mr. Stroud has since submitted an affidavit accepting responsibility for failing to perfect Mixon's appeal.

[1] We find that such an error, admittedly made by the attorney for a criminal defendant, is good cause to treat the motion as one for belated appeal and grant the motion. *See In Re: Belated Appeals in Criminal Cases*, 265 Ark. 964 (1979) (per curiam). A copy of this opinion will be forwarded to the Committee on Professional Conduct.