

Johnny Ray HAWTHORNE v. STATE of Arkansas

CR. 97-1021

950 S.W.2d 806

Supreme Court of Arkansas
Opinion delivered October 2, 1997

1. APPEAL & ERROR — MOTION FOR BELATED APPEAL — GOOD CAUSE FOR GRANTING. — An admission by an attorney for a criminal defendant that the filing of the notice of appeal was premature due to a mistake on his part is good cause to grant a motion for belated appeal.
2. APPEAL & ERROR — APPELLANT NOT PREJUDICED BY DELAY — MOTION FOR RULE ON CLERK AND APPOINTMENT OF COUNSEL DENIED. — Where the supreme court granted the motion for belated appeal filed by appellant's attorney, appellant was not prejudiced by the delay; accordingly appellant's pro se motion for appointment of counsel and rule on the clerk were denied.

Motion for Belated Appeal; granted; Motion for Appointment of Counsel and Rule on the Clerk; denied.

John F. Stroud, III, for appellant.

No response.

PER CURIAM. [1] Appellant, Johnny Ray Hawthorne, by and through his attorney, has filed a motion for a rule on the clerk. We treat this motion as a motion for belated appeal. His attorney, John F. Stroud, III, admits in his motion that the filing of the notice of appeal was premature due to a mistake on his part. We find that such an error, admittedly made by the attorney for a criminal defendant, is good cause to grant the motion. See *In re Belated Appeals in Criminal Cases*, 265 Ark. 964 (1979) (per curiam). The motion for belated appeal is therefore granted.

[2] Appellant has also filed a pro se motion for appointment of counsel and rule on the clerk. Because we are granting his attorney's motion for belated appeal, we find that appellant has not been prejudiced by this delay. We accordingly deny this motion for appointment of counsel and rule on the clerk.

A copy of this opinion will be forwarded to the Committee on Professional Conduct.