

James Jess COLVIN *v.* STATE of Arkansas

CR 97-1353

958 S.W.2d 297

Supreme Court of Arkansas
Opinion delivered December 4, 1997

APPEAL & ERROR — MOTION FOR RULE ON CLERK TREATED AS
MOTION FOR BELATED APPEAL — GOOD CAUSE FOR GRANTING.

— Where, in his motion for rule on the clerk, the attorney for the criminal defendant admitted that he failed to verify that the judgment and commitment order had been filed prior to the filing of the notice of appeal, his motion for rule on the clerk was treated as a motion for belated appeal and the motion was granted.

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

Kent T. Tharel, for appellant.

No response.

PER CURIAM. Appellant James Jess Colvin has filed a motion for rule on the clerk. The motion reflects that the notice of appeal was filed before the judgment and commitment order was entered. The motion was, therefore, untimely and ineffective. See Ark. R. App. P.—Civ. 4.

[1] Appellant's attorney, Kent T. Tharel, has assumed responsibility for not verifying that the judgment and commitment order had been filed prior to the filing of the notice of appeal. Because he has admitted responsibility for the error, we treat the motion for rule on the clerk as a motion for belated appeal, and we grant it. We direct that a copy of this order be filed with the Committee on Professional Conduct. See *In Re: Belated Appeals in Criminal Cases*, 265 Ark. 964 (1979) (*per curiam*).