

Jimmy Don WOOTEN *v.* STATE of Arkansas

CR 98-73

958 S.W.2d 537

Supreme Court of Arkansas  
Opinion delivered February 12, 1998

APPEAL & ERROR — MOTION FOR RULE ON CLERK TREATED AS  
MOTION FOR BELATED APPEAL — GOOD CAUSE FOR GRANTING.  
— An admission by an attorney for a criminal defendant that the  
notice of appeal was not timely filed due to a mistake on his part is  
good cause to treat his motion for rule on the clerk as a motion for  
a belated appeal; the motion was granted.

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

*James O. Clawson*, for appellant.

No response.

PER CURIAM. Appellant Jimmy Don Wooten by his attorney, James O. Clawson, has filed a motion for rule on the clerk. The motion reflects that Appellant requested a hearing in the trial court on his Rule 37 petition, and that such request was denied. Clawson admits by motion that the notice of appeal was not timely filed due to a mistake on his part.

[1] Because Clawson has assumed responsibility for the error, we treat the motion for rule on the clerk as a motion for belated appeal, and we grant it. 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.

---