

Johnny J. PEMBERTON *v.* STATE of Arkansas

CR. 00-639

19 S.W.3d 36

Supreme Court of Arkansas
Opinion delivered June 22, 2000

APPEAL & ERROR — MOTION FOR RULE ON CLERK — GOOD CAUSE FOR GRANTING. — An admission by an attorney for a criminal defendant that the record was tendered late due to a mistake on his part is good cause to grant a motion for rule on the clerk.

Motion for Rule on the Clerk; granted.

The Harper Law Office, P.L.L.C., by: *Greg Fallon*, for appellant.

No response.

PER CURIAM. Appellant Johnny J. Pemberton filed a notice of appeal from his criminal conviction on December 14, 1999. Rule 5(a) of the Arkansas Rules of Appellate Procedure provides that a record must be filed within ninety days of the filing of the first notice of appeal unless the time is extended by the trial court. Subsection (b) of the Rule provides that the trial court may extend the time for filing the record with this court if the order of extension is entered before the expiration of the original filing period. On March 9, 2000, Appellant, by his attorney, Greg Fallon, filed a motion for extension of time to file the record. The trial court did not grant Appellant's motion until March 16, 2000, after expiration of the original filing period.

[1] Mr. Fallon admits in the instant motion that the record was tendered late due to a mistake on his part. We find that such an error, admittedly made by an attorney for a criminal defendant, is good cause to grant the motion. *Jones v. State*, 338 Ark. 29, 992 S.W.2d 85 (1999) (*per curiam*) (citing *Tarry v. State*, 288 Ark. 172, 702 S.W.2d 804 (1986) (*per curiam*)). Accordingly, the motion for rule on the clerk is granted. A copy of this opinion will be forwarded to the Committee on Professional Conduct. See *In Re: Belated Appeals in Criminal Cases*, 265 Ark. 964 (1979) (*per curiam*).
