

Lamont BOWDEN *v.* STATE of Arkansas

CR 95-1258

925 S.W.2d 158

Supreme Court of Arkansas
Opinion delivered July 8, 1996

CONTEMPT — CONTEMPT ORDER ISSUED — STATEMENTS IN MITIGATION CONSIDERED. — Where counsel for appellant, having been ordered to appear and show cause why he should not be held in contempt of the supreme court's four prior orders to file appellant's brief, conceded that he had previously failed to file appellant's brief but had done so on Friday, June 28, 1996, asserting that his failure to file a timely brief was not willful and offering "extenuating circumstances" concerning the hospitalization of a critically ill infant daughter, the supreme court considered the statements in mitigation of counsel's failure to file a timely brief and directed that, if counsel filed an affidavit formally verifying those statements, no further action would be necessary.

Contempt Order issued.

Ronald Carey Nichols, for appellant.

No response.

PER CURIAM. Defense counsel, Ronald Carey Nichols, appeared on July 1, 1996, in response to this court's order to show cause why he should not be held in contempt of this court's four prior orders to file appellant's brief. Upon his appearance, Mr. Nichols concedes he had previously failed to file appellant's brief, but had done so on Friday, June 28, 1996. He asserted his failure to file a timely brief was not willful.

[1] Mr. Nichols offered what he called "extenuating circumstances" concerning the hospitalization of an infant daughter, who has cerebral palsy and was in a live-or-die status during this same period when appellant's brief was due. We consider those statements in mitigation of Nichols' failure to file a timely brief, and if Mr. Nichols files an affidavit formally verifying those statements, we direct no further action is necessary.