

BOARD OF TRUSTEES for the City of Little Rock Police
Pension Fund v. Mark STODOLA, et al.

96-948

931 S.W.2d 443

Supreme Court of Arkansas
Opinion delivered November 11, 1996

1. APPEAL & ERROR — ATTORNEY'S DUTY TO MAKE HIMSELF AWARE OF DATE ON WHICH BRIEF WAS DUE. — The rules of the supreme court clearly state that the appellant must file a brief within forty days of lodging the record; it is the attorney's, not the court's, responsibility to make himself aware of the date on which his brief was due.
2. APPEAL & ERROR — MOTION TO DISMISS DENIED — MOTION TO FILE BELATED BRIEF GRANTED. — The supreme court denied the separate appellee's motion to dismiss the appeal and granted appellant's motion to file a belated brief.

Motion to Dismiss; denied.

Motion to File Belated Brief; granted.

Tell Hulett, for appellant.

Stephen Cobb, Pulaski County Att'y's Office, for separate appellee Pulaski County.

PER CURIAM. On October 14, 1996, the separate appellee, Pulaski County, filed a motion to dismiss this appeal because the appellant had failed to timely file its brief or to request an extension.

On October 15, 1996, *Tell Hulett*, counsel for the appellant, filed a motion for extension of time to file a belated brief. *Hulett* lodged the record on August 15, 1996, and, according to Ark. S. Ct. R. 4-4(a), was required to file his brief by September 24, 1996. As of today, *Hulett* has not filed the brief nor has he been granted

an extension.

[1] Hulett explains that he failed to file a timely brief because the Supreme Court Clerk did not notify him of the date on which his brief was due. The rules clearly state that the appellant must file a brief within forty days of lodging the record. Ark. S. Ct. R. 4-4(a). It is Hulett's, not the court's, responsibility to make himself aware of the date on which his brief was due.

[2] The motion to dismiss the appeal is denied. The motion to file a belated brief is granted. A copy of this *per curiam* will be forwarded to the Committee on Professional Conduct. *See also Baker v. State*, (slip op. CR96-502, November 11, 1996)(*per curiam*).
