

BOARD of TRUSTEES for the City of Little Rock Police
Pension Fund *v.* Mark STODOLA

96-948

934 S.W.2d 532

Supreme Court of Arkansas
Opinion delivered December 23, 1996

1. APPEAL & ERROR — ATTORNEY HAS RESPONSIBILITY TO TIMELY FILE BRIEFS — MOTION TO FILE BELATED BRIEF GRANTED. — Although it was appellant's, not the court's, responsibility to make himself aware of the date on which his brief was due, the motion to file a belated brief is granted.
2. APPEAL & ERROR — SHOW-CAUSE ORDER ISSUED. — Appellant was ordered to appear before the court to show cause why he should not be held in contempt of court for his failure to file the appellant's brief.

Motion to File Belated Brief; granted; order issued to appear and show cause.

Tell Hulett, for appellant.

Winston Bryant, Att'y Gen., by: *Patricia Van Ausdall*, Asst. Att'y Gen., for appellee.

PER CURIAM. On October 14, 1996, 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. This court denied the motion to dismiss, granted the appellant an extension to file the brief, and ordered it due on November 18, 1996. *Board of Trustees v. Stodola*, 326 Ark. 581, 931 S.W.2d 443 (1996) (*per curiam*). As of today, Hulett still has not filed the brief nor has he been granted another extension.

On November 26, 1996, Hulett filed a second motion for extension of time to file a belated brief. Hulett again 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). We reiterate that it is Hulett's, not the court's, responsibility to make himself aware of the date on which his brief was due.

[1] The motion to file a belated brief is granted. A copy of this *per curiam* will be forwarded to the Committee on Professional Conduct.

[2] Tell Hulett is hereby ordered to appear before this court on the twentieth day of January, 1997, at 9:00 a.m., to show cause why he should not be held in contempt of this court for his failure to file the appellant's brief.
