

James Hollis GUSS *v.* STATE of Arkansas

CR 96-905

939 S.W.2d 817

Supreme Court of Arkansas  
Opinion delivered February 17, 1997

CONTEMPT — CONTEMPT ORDER ISSUED. — The supreme court held that appellant's attorney was in contempt for failing to file appellant's brief in a timely manner and fined him.

Contempt Order issued.

*Jeffrey H. Kearney*, for appellant.

No response.

PER CURIAM. The procedural background in this matter is set forth in our *per curiam* opinion delivered on January 27, 1997. *Guss v. State*, 327 Ark. 127 (1997). Attorney Jeffrey H. Kearney, counsel for appellant James Hollis Guss, was cited to appear before this court on February 10, 1997, to show cause why he should not be held in contempt for his failure to file the appellant's brief in a timely manner.

Mr. Kearney appeared on February 10, 1997, and acknowledged receiving notice of the show cause hearing from the Clerk of the Arkansas Supreme Court. Mr. Kearney entered a plea of

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guilty to the contempt citation and accepted full responsibility for failing to file his client's brief in a timely manner. In mitigation, he stated that his failure was due to the fact that he practiced law in a small firm with one other lawyer, and that he had delegated the calendaring of deadlines to clerical staff. Since Mr. Kearney began his law practice five years ago, mistakes in time management and calendaring resulted in several missed deadlines. See *Guss v. State*, 325 Ark. 521 (1996); *Johnson v. State*, 325 Ark. 417 (1996); *West v. State*, 321 Ark. 513 (1995). However, Mr. Kearney has not previously been held in contempt or fined by this court.

Because of these errors, Mr. Kearney intends to implement corrective action by personally calendaring the deadlines in his law practice. In addition to extending his apologies, Mr. Kearney displayed candor and forthrightness in his statements to this court.

[1] From the foregoing, we hold that Mr. Kearney is in contempt for failing to file the appellant's brief in a timely manner and we fine him \$250. A copy of this opinion will be forwarded to the Committee on Professional Conduct.

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