

Timothy MOSES *v.* STATE of Arkansas

CR 96-680

938 S.W.2d 233

Supreme Court of Arkansas
Opinion delivered February 24, 1997

1. APPEAL & ERROR — MOTION FOR RULE ON CLERK DENIED. — Where counsel for appellant attributed his failure to file the record on time to appellant's inability to pay for the transcript and accepted no responsibility for the belated tender of the record, the supreme court, treating his motion for belated appeal as one for rule on the clerk, denied the motion, noting that if, within thirty days from the date of the order, counsel were to file a motion for rule on the clerk, accepting full responsibility for the delay in tendering the transcript, the motion would be granted.
2. APPEAL & ERROR — MOTION FOR WITHDRAWAL OF COUNSEL DENIED. — Citing Ark. R. Crim. P. 4-3(j)(1), the supreme court denied counsel's motion to withdraw.

Motion for Rule on the Clerk; denied.

Motion for Withdrawal of Counsel; denied.

Young & Finley, by: *Richard H. Young*, for appellant.

Winston Bryant, Att'y Gen., by: *C. Joseph Cordi*, Asst. Att'y Gen., for appellee.

PER CURIAM. Timothy Moses has filed a motion for a belated appeal from his convictions of theft and burglary. As the notice of appeal and designation of the record were apparently timely, but his attempt to docket the record was not, we will treat the motion as one for rule on the clerk.

[1] Counsel for Mr. Moses attributes failure to file the record on time to Mr. Moses's inability to pay for the transcript and accepts no responsibility for the belated tender of the record. If counsel files a motion for rule on the clerk within thirty days from the date of this order, accepting full responsibility for the delay in tendering the transcript, the motion will be granted and a copy of the opinion will be forwarded to the Committee on Professional Conduct. *Reyes v. State*, 326 Ark. 913, 934 S.W.2d 526 (1996).

[2] Counsel, apparently unaware of Ark. R. Crim. P. 4-3(j)(1), has also moved to withdraw from the appeal, stating he “is unsure how to proceed when there is a transcript with no apparent issues for appeal and his client refuses to contact him.” Counsel’s motion to withdraw is denied.
