

Johnny Mark PROPST v. STATE of Arkansas

CR 96-633

939 S.W.2d 311

Supreme Court of Arkansas
Opinion delivered March 24, 1997

1. CONTEMPT — CHARGE OF CONTEMPT — PLEA CHANGE TO GUILTY ACCEPTED. — Where counsel for appellant filed a petition with the court indicating his desire to change his plea to guilty to the charge of contempt, his plea was accepted.
2. CONTEMPT — APPELLANT'S COUNSEL FOUND IN CONTEMPT AND FINED FOR FAILURE TO TIMELY FILE APPELLANT'S BRIEF — MOTION TO FILE BELATED GRIEF GRANTED. — Appellant's counsel was held in contempt for failing to file appellant's brief in a timely

manner and fined \$250; appellant's motion to file a belated brief was granted and his appeal thus reinstated.

Motion to File Belated Brief and Reinstate Appeal granted;
Contempt Order issued.

J. F. Atkinson, for appellant.

No response.

PER CURIAM. The procedural background in this matter is set forth in a *per curiam* opinion delivered on February 3, 1997. *In the Matter of Contempt of Counsel, J.F. Atkinson Jr.*, 327 Ark. 193, 936 S.W.2d 747 (1997). Attorney J.F. Atkinson Jr., counsel for Appellant, Johnny Mark Propst, was cited to appear before this court on January 27, 1997, to show cause why he should not be held in contempt for his failure to file Appellant's brief in a timely manner. Mr. Atkinson appeared before this court on that date and entered a plea of not guilty to the charge of contempt. We appointed the Honorable Robert H. Dudley as Master to conduct a hearing and make findings of fact in this matter. Before such hearing was scheduled, however, Mr. Atkinson sent a letter to the appointed Master stating that he wished to change his plea to one of guilty to the contempt charge.

On the recommendation of the Master, Mr. Atkinson filed a petition with this court on March 5, 1997, indicating his desire to change his plea to guilty to the charge of contempt. Mr. Atkinson stated that he had made a serious mistake in failing to timely file Appellant's brief and that he understood that it was his responsibility to make sure the brief and other matters were timely filed with this court. Mr. Atkinson stated that he would ensure that no similar actions by him occurred in the future. Mr. Atkinson further requested this court to act upon his motion for belated brief and reinstate Appellant's appeal.

[1, 2] Based upon the foregoing, we hold that Mr. Atkinson is in contempt for failing to file Appellant's brief in a timely manner and we fine him \$250. Furthermore, we hereby grant Appellant's motion to file a belated brief and thus reinstate Appel-

lant's appeal. A copy of this opinion will be forwarded to the
Committee on Professional Conduct.
