

Albert BELL *v.* STATE of Arkansas

CR. 02-1071

88 S.W.3d 425

Supreme Court of Arkansas
Opinion delivered October 31, 2002

APPEAL & ERROR — MOTION FOR RULE ON CLERK — GOOD CAUSE FOR GRANTING. — An admission by an attorney for a criminal defendant that he failed to obtain an order of extension, resulting in the late tendering of the record on appeal, is good cause to grant a motion for rule on the clerk.

Motion for Rule on the Clerk; granted.

Dana A. Reece, for appellant.

No Response.

PER CURIAM. Appellant Albert Bell, by and through his attorney, files a motion for a rule on the clerk. The motion reflects that the judgment was filed on March 6, 2002, and that the notice of appeal was timely filed on April 4, 2002. On June 5, 2002, counsel filed a motion for an extension of time to prepare the record for appeal. No order of extension, however, was ever obtained. The transcript was tendered to this court on October 8, 2002.

Pursuant to Ark. R. App. P.—Civ. 5(a), the record on appeal must be filed with this court's clerk within ninety days from the filing of the first notice of appeal. The time for filing the record may be extended, provided that an order of extension is issued within the ninety-day period. *See* Ark. R. App. P.—Civ. 5(b). No such order of extension was entered in the present case.

[1] Appellant's attorney, Dana Reece, admits responsibility for failing to obtain an order of extension, resulting in the late tendering of the record on appeal. We find that such error, admittedly made by the attorney for a criminal defendant, is good cause to grant the motion. *See Dwills v. State*, 347 Ark. 294, 62 S.W.3d

359 (2001) (*per curiam*); *Jones v. State*, 338 Ark. 29, 992 S.W.2d 85 (1999) (*per curiam*); *Tarry v. State*, 288 Ark. 172, 702 S.W.2d 804 (1986) (*per curiam*).

The motion for rule on the clerk is, therefore, granted. A copy of this opinion will be forwarded to the Committee on Professional Conduct. See *In Re: Belated Appeals in Criminal Cases*, 265 Ark. 964 (1979) (*per curiam*).
