

Edward Henry BUIE *v.* STATE of Arkansas

CR 02-1195

94 S.W.3d 903

Supreme Court of Arkansas
Opinion delivered January 9, 2003APPEAL & ERROR — MOTION FOR RULE ON CLERK TREATED AS
MOTION FOR BELATED APPEAL — GOOD CAUSE FOR GRANTING.

— An admission by an attorney for a criminal defendant that the notice of appeal was not timely filed due to a mistake on his part is good cause to grant a motion for rule on the clerk, which the supreme court will treat as a motion for belated appeal.

Motion for Rule on the Clerk Treated as Motion for Belated Appeal; granted.

Keil & Goodson, by: *John C. Goodson*, for appellant.

No response.

PER CURIAM. Appellant Edward Henry Buie filed a motion for rule on the clerk. We previously denied the motion because Appellant's attorney, John C. Goodson, did not admit fault in failing to timely file the notice of appeal. See *Buie v. State*, 351 Ark. 198, 89 S.W.3d 929 (2002) (*per curiam*). We indicated, however, that we would grant the motion if Appellant's counsel filed an affidavit accepting responsibility for failing to timely file the notice of appeal. Appellant's counsel has accepted responsibility for the error in an affidavit filed on December 19, 2002.

[1] This court has held that we will grant a motion for rule on the clerk, which we will treat as a motion for belated appeal, when the attorney admits that the notice of appeal was not timely filed due to an error on his part. See, e.g., *Brazil v. State*, 332 Ark. 74, 959 S.W.2d 55 (1998) (*per curiam*); *Tarry v. State*, 288 Ark. 172, 702 S.W.2d 804 (1986) (*per curiam*). 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*).