

Alisa D. EFURD *v.* STATE of Arkansas

CR 03-140

99 S.W.3d 418

Supreme Court of Arkansas
Opinion delivered March 6, 2003

CONTEMPT — SHOW-CAUSE ORDER ISSUED. — Where, after filing a notice of appeal and designation of record, appellant's counsel failed to timely file the transcript, counsel was ordered to appear before the supreme court to show cause why he should not be held in contempt for failing to timely perfect the appeal.

Order to Show Cause.

J. F. Atkinson, Jr., for appellant.

No response.

PER CURIAM. Attorney J. F. Atkinson, Jr., represents appellant Alisa Danieal Efurd, who was convicted of first-degree murder by a jury in the Sebastian County Circuit Court and was sentenced to twenty-five years in the Arkansas Department of Correction. On February 23, 1999, the Arkansas Court of Appeals issued a mandate affirming Efurd's conviction; and, on March 19, 1999, Efurd filed a timely *pro se* Rule 37 petition, a petition to proceed *in forma pauperis*, and a motion for appointment of counsel. On April 9, 1999, the trial court issued an order to appoint J. F. Atkinson, Jr., to represent Efurd in her Rule 37 proceeding; and, on April 12, 1999, the trial court sent a notice to counsel stating, "Please find an order appointing you (Jeff Atkinson) to represent Ms. Efurd in her Rule 37 Petition. No hearing has been scheduled as of this date." On August 31, 1999, Efurd's Rule 37 petition was summarily denied without making written findings specifying the parts of the files and records relied upon in denying the petition.

On September 9, 1999, the trial court entered an order awarding attorney fees to J. F. Atkinson, Jr. Efurd notified Atkinson of her desire to appeal; and, on November 10, 1999, Atkinson filed Efurd's notice of appeal and designation of record. The court

reporter filed the transcript with the Sebastian County Circuit Court Clerk and tendered to counsel the transcript on or about February 10, 2000.

Atkinson thereafter failed to timely file the transcript with the clerk of this court, due to the file and transcript sitting therein, having been misfiled or lost and forgotten about according to Atkinson. Atkinson asserts that while searching for another file which was misfiled, Atkinson came across Efurd's file. Then, on February 7, 2003, Atkinson filed a motion to file belated appeal and rule on the clerk.

[1] Based on the circumstances described above, we order J. F. Atkinson, Jr., to appear before this court on March 20, 2003, at 9:00 a.m., to show cause why he should not be held in contempt for failing to timely perfect the appeal.
