

James David WRIGHT *v.* STATE of Arkansas

CR 03-441

114 S.W.3d 204

Supreme Court of Arkansas  
Opinion delivered May 15, 2003

APPEAL & ERROR — MOTION FOR BELATED APPEAL — GOOD CAUSE FOR GRANTING. — Where the notice of appeal is tendered late due to a mistake on the part of appellant's counsel, such an error, admittedly made by an attorney for a criminal defendant, is good cause to grant a motion for belated appeal.

Motion for Belated Appeal; granted.

*Tylar C.M. Tapp, III*, for appellant.

No response.

**P**ER CURIAM. Appellant James David Wright, by and through his attorney, Tylar C.M. Tapp, III, has filed a motion to file belated appeal from his conviction of second-degree murder. Tylar C.M. Tapp, III, represented appellant James David Wright on the charge in the Circuit Court of Garland County, Arkansas. After Wright was convicted and sentenced to twelve years in the Arkansas Department of Correction, attorney Tapp filed a motion to withdraw as attorney of record for appellant citing accusations made by appellant Wright of Tapp having received bribes and not being properly prepared. Attorney Tapp failed to submit an affidavit of indigency for appellant Wright. Tapp advised appellant Wright that if he wished to appeal, he should contact the Public Defenders Office. On November 4, 2002, the trial court found good cause to have attorney Tapp relieved as attorney of record for appellant Wright. Then on January 30, 2003, the trial court reappointed attorney Tapp as attorney of record for appellant Wright. On February 3, 2003, a notice of appeal was filed in the Circuit Court of Garland County, Arkansas.

[1] Appellant now seeks permission to file a belated appeal from this court. Attached to his petition is an affidavit from Mr.

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Tapp accepting responsibility for failing to timely file the notice of appeal. We find that such an error, admittedly made by an attorney for a criminal defendant, is good cause to grant the motion. See *Jacks v. State*, 344 Ark. 405, 39 S.W.3d 459 (2001) (*per curiam*); *Donald v. State*, 341 Ark. 803, 20 S.W.3d 331 (2000) (*per curiam*); *Harkness v. State*, 264 Ark. 561, 572 S.W.2d 835 (1978).

The motion for belated appeal 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*).

CORBIN, J., not participating.

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