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Tami THRAILKILL *v.* STATE of Arkansas

CR 03-809

117 S.W.3d 586

Supreme Court of Arkansas  
Opinion delivered September 4, 2003

APPEAL & ERROR — MOTION FOR RULE ON CLERK — GOOD CAUSE FOR GRANTING. — An admission by an attorney for a criminal defendant that the record was tendered late due to a mistake on his part is good cause to grant a motion for rule on the clerk.

Motion for Rule on the Clerk; granted.

*Jason W. Massey*, for appellant.

No response.

**P**ER CURIAM. Appellant, Tami Thrailkill, by and through her attorney, has filed a motion for rule on clerk. Her attorney, Jason W. Massey, states in the motion that the record was tendered late due to a mistake on his part.

Mr. Massey filed a notice of appeal on behalf of Ms. Thrailkill on February 11, 2003. He subsequently resigned from his position as a public defender on April 3, 2003, and entered private practice as an attorney. The record in Ms. Thrailkill's appeal was due on May 12, 2003. After the court reporter informed Mr. Massey that she would not be able to complete the record by that date, Mr. Massey sent a motion to extend time to prepare the record to the circuit clerk. That motion was file-marked May 5, 2003. Mr. Massey then faxed the order extending time to prepare the record to the circuit judge, who had agreed to sign the order and to forward it to the Scott County Circuit Clerk's Office. This was not done. Subsequent to May 12, 2003, Mr. Massey telephoned the circuit clerk and discovered that the order had not been filed. The order extending the time to prepare the record was finally file-marked on May 22, 2003. Mr. Massey accepts full responsibility for lateness of the order extending time to prepare the record.

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[1] We find that such an error, admittedly made by an attorney for a criminal defendant, is good cause to grant the motion. See *In Re Belated Appeals in Criminal Cases*, 265 Ark. 964 (1979) (*per curiam*).

The motion is, therefore, granted. A copy of this opinion will be forwarded to the Committee on Professional Conduct.

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