

SUPREME COURT OF ARKANSAS

No. CR 11-97

BRUCE WADE PENNINGTON
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered September 15, 2011

MOTION TO FILE BELATED BRIEF

GRANTED.

PER CURIAM

Appellant Bruce Wade Pennington, by and through his counsel, Dana A. Reece, moves this court to file a belated brief. After an extension of time in which to file his brief was granted by this court, Pennington's brief was due on April 6, 2011. No brief was filed, and Pennington subsequently filed two motions to file belated brief. This court denied both motions without prejudice, however, due to Pennington's failure to tender a brief. On August 31, 2011, Pennington tendered his brief and filed the instant motion.

We will accept a criminal appellant's belated brief to prevent an appeal from being aborted. *See Brewton v. State*, 375 Ark. 364, 290 S.W.3d 605 (2009) (per curiam). However, good cause must be shown to grant the motion. *See id.*; *see also Strom v. State*, 356 Ark. 224, 147 S.W.3d 689 (2004) (holding that appellate counsel's admitted failure to timely file the brief constituted good cause to grant appellant's motion for belated brief). While counsel Reece does not admit fault, her fault is clear from the record and constitutes good cause. *See, e.g., Young v. State*, 372 Ark. 219, 272 S.W.3d 109 (2008) (per curiam). Accordingly, we grant the instant motion and refer the matter to the Committee on Professional Conduct.

Motion granted.



Cite as 2011 Ark. 363