

Arzelle Lee PHILLIPS *v.* STATE of Arkansas

CR 80-125

601 S.W. 2d 863

Supreme Court of Arkansas  
Opinion delivered June 30, 1980

CRIMINAL PROCEDURE — ATTORNEY'S FAILURE TO TIMELY LODGE RECORD ON APPEAL — COMMITTEE ON PROFESSIONAL CONDUCT INFORMED. — Failure by a criminal defendant's attorney to timely lodge the record on appeal constitutes good cause for delay for which a motion for a rule on the Clerk will be granted; however, a copy of the opinion granting the motion for relief will be forwarded to the Committee on Professional Conduct.

*William C. McArthur*, for appellant.

*Steve Clark*, Atty. Gen., for appellee.

Motion for Rule on Clerk; granted.

## PER CURIAM

The appellant, Arzelle Lee Phillips, through his attorney, William C. McArthur of Little Rock, Arkansas, has filed a motion for a rule on the Clerk.

Attached to the motion is an affidavit by Jewel Brown, appellant's trial counsel, in which it is admitted that Brown failed to timely lodge the record as it was his duty to do.

We have found in the past and acknowledge that such an error, admittedly made by an attorney for a criminal defendant, constitutes good cause for a delay for which we will grant a motion for a rule on the Clerk. In a per curiam opinion regarding belated appeals, rendered February 5, 1978, we discussed the problem of a untimely tender of a record caused by an attorney representing a criminal defendant. We decided that we have no alternative but to grant a motion for relief in such a case. However, we pointed out that a copy of the opinion would be forwarded to the Committee on Professional Conduct.

We find good cause exists in this case and forward a

copy of this opinion to the Committee on Professional Conduct as is our practice.

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