

Donald WATTS v. Charles E. REYNOLDS and Helen I.
REYNOLDS

692 S.W.2d 247

Supreme Court of Arkansas
Opinion delivered July 8, 1985

1. APPEAL & ERROR — EXTENSION OF TIME FOR FILING NOTICE OF APPEAL BY FILING NEW TRIAL MOTION — WHEN THIRTY-DAY PERIOD FOR FILING NOTICE BEGINS TO RUN. — Ark. R. App. P. 4(c) permits the time for filing a notice of appeal to be extended by filing a new trial motion; the thirty-day period for filing a notice of appeal runs from the expiration of thirty days after the motion is filed unless the motion is set for hearing or taken under advisement within thirty days after it is filed.
2. APPEAL & ERROR — NOTICE OF APPEAL — WRITTEN RECORD OF ACTIONS TAKEN MUST BE MADE WITHIN THIRTY DAYS OF FILING

MOTION FOR NEW TRIAL. — To comply with the requirement of Ark. R. App. P. 4(c), a written record of setting a hearing or taking the motion under advisement must have been made within thirty days of the filing of the new trial motion.

Motion for Rule on the Clerk to Lodge Transcript; motion denied.

Orvin W. Foster, for appellant.

Joe H. Hardegree, for appellees.

PER CURIAM. A chancery decree was entered in this case on August 2, 1984. A motion for new trial was filed August 8, 1984. An order overruling the new trial motion was filed January 25, 1985. Notice of appeal was filed February 5, 1985. On May 29, 1985, the chancellor ordered his docket "completed and supplemented" to show he took the new trial motion under advisement on August 9, 1984.

[1] Ark. R. App. P. 4(c) permits the time for filing a notice of appeal to be extended by filing a new trial motion. The thirty-day period for filing a notice of appeal runs from the expiration of thirty days after the motion is filed unless the motion is set for hearing or taken under advisement within thirty days after it is filed.

[2] To comply with the requirement of Ark. R. App. P. 4(c), a written record of setting a hearing or taking the motion under advisement must have been made within thirty days of the filing of the new trial motion. See our per curiam order of this date in the case of *Brittenum & Assoc. v. Mayall*. This case is distinguishable from *Brittenum & Assoc. v. Mayall* because there the reconstruction of the record shows a written record of the setting of a hearing date did occur within the thirty-day period.

Motion for rule on the clerk denied.

DUDLEY, J., not participating.