

Allen Shane KELLEY v. STATE of Arkansas

CR 04-99

147 S.W.3d 690

Supreme Court of Arkansas
Opinion delivered February 19, 2004

MOTIONS — RULE ON CLERK — GOOD CAUSE FOR GRANTING. — An admission made by the attorney for a criminal defendant that the record was tendered late due to his fault is good cause to grant a motion for rule on the clerk.

Motion for Rule on the Clerk; granted.

Michael J. Dodson, for appellant.

No response.

PER CURIAM. Appellant Allen Shane Kelley, by and through his attorney, Michael J. Dodson, has filed a motion for rule on the clerk. The motion reflects that the judgment of conviction was filed on October 10, 2003, and the notice of appeal was timely filed on October 22, 2003. The record on appeal was due to be filed on January 20, 2004. *See* Ark. R. App. P.—Crim. 4; Ark. R. App. P.—Civ. 5. Thereafter, counsel obtained an order from the trial court extending the time to lodge the record on appeal, but that order was of no effect because it was entered on January 22, 2004, two days after the original ninety-day period ended. *Id.* The record was tendered in this court on January 23, 2004. Counsel admits responsibility for tendering the record late.

[1] We find that such error, admittedly made by the attorney for a criminal defendant, is good cause to grant the motion. See *Jackson v. State*, 351 Ark. 212, 89 S.W.3d 930 (2002) (*per curiam*); *Tarry v. State*, 288 Ark. 172, 702 S.W.2d 804 (1986) (*per curiam*). The motion for rule on the clerk 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*).

It is so ordered.
