

Terry Lynn KUELPER *v.* STATE of Arkansas

CR 03-1379

150 S.W.3d 282

Supreme Court of Arkansas
Opinion delivered March 4, 2004

1. APPEAL & ERROR — MOTION FOR BELATED APPEAL — GRANTED. — Based on findings by the trial court on remand, the supreme court granted appellant's motion for belated appeal.
2. CERTIORARI — WRIT ISSUED — COURT REPORTER DIRECTED TO COMPLETE TRANSCRIPT. — The supreme court issued a writ of certiorari and directed the circuit court reporter to complete the transcript in the matter.

Motion for Belated Appeal and Request for Writ of Certiorari; granted.

Larry R. Froelich, for appellant.

No response.

PER CURIAM. Appellant Terry Lynn Kuelper, by and through his attorney, Larry R. Froelich, has filed a motion for belated appeal from his convictions of two counts of rape. He also seeks a writ of certiorari to complete the record on appeal.

Appellant was convicted following a jury trial held on June 24 through June 26, 2003. The judgment and commitment order was entered on July 22, 2003. Appellant filed this motion on December 3, 2003. We initially denied the motion and remanded the matter to the Benton County Circuit Court to settle the record. *See Kuelper v. State*, 355 Ark. 539, 140 S.W.3d 464 (2004) (*per curiam*). Particularly, we instructed the trial court to determine whether Appellant's trial attorneys, John Gross and Dan Hash, had been relieved of their responsibility to represent Appellant in this matter, whether Appellant had requested his attorneys to file a notice of appeal on his behalf, and whether current counsel, Mr. Froelich, had been appointed to represent Appellant on appeal.

[1] Following remand, the trial court entered an order on January 28, 2004, finding that (1) Appellant had immediately, on the date of his trial, requested Mr. Gross, in Mr. Hash's presence,

to file a notice of appeal on his behalf; (2) Mr. Froelich entered his appearance on Appellant's behalf on September 12, 2003; and (3) Mr. Gross and Mr. Hash were relieved of their obligations to represent Appellant on the date that Mr. Froelich entered his appearance. Based on these findings, we now grant the motion for belated appeal. See *Venis v. State*, 350 Ark. 436, 87 S.W.3d 241 (2002) (*per curiam*). A copy of this opinion will be forwarded to the Committee on Professional Conduct to review the conduct of Mr. Gross and Mr. Hash in this matter.

[2] We further issue a writ of certiorari and direct the court reporter for the Benton County Circuit Court to complete the transcript so that it may be promptly filed with this court's clerk. A briefing schedule will then be set.

It is so ordered.
