

SUPREME COURT OF ARKANSAS

No. CR12-344

SIMON ERIC REED

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered September 20, 2012

MOTION FOR RULE ON CLERK
TREATED AS MOTION FOR
BELATED APPEALMOTION DENIED.**PER CURIAM**

On April 25, 2012, appellant, by and through his attorney, Brett Blakney, filed a motion for rule on clerk. Because there was no notice of appeal filed in this case, however, we treated appellant's motion as one for belated appeal and remanded for findings on attorney error. *Reed v. State*, 2012 Ark. 213 (per curiam). The circuit court has now provided its record of the proceedings on remand and found that there was no evidence of attorney error.

This court clarified its treatment of motions for rule on clerk and motions for belated appeals in *McDonald v. State*, 356 Ark. 106, 146 S.W.3d 883 (2004). There, we said that there are only two possible reasons for an appeal not being timely perfected: either the party or attorney filing the appeal is at fault, or, there is "good reason." 356 Ark. at 116, 146 S.W.3d at 891. We explained:

Where an appeal is not timely perfected, either the party or attorney filing the appeal is at fault, or there is good reason that the appeal was not timely perfected. The party or attorney filing the appeal is therefore faced with two options. First, where the party or attorney filing the appeal is at fault, fault should be admitted by affidavit filed with the motion or in the motion itself. There is no advantage in declining to admit fault

where fault exists. Second, where the party or attorney believes that there is good reason the appeal was not perfected, the case for good reason can be made in the motion, and this court will decide whether good reason is present.

Id., 146 S.W.3d at 891 (footnote omitted).

When a criminal defendant requests a belated appeal, good reason is established where the defendant is not at fault, and his or her attorney has failed to file a timely notice of appeal following a request to do so received within the requisite time to file a notice of appeal. *See Williams v. State*, 366 Ark. 583, 237 S.W.3d 93 (2006). In the present case, no reason for the failure to file a notice of appeal is cited in the motion, fault is not admitted, and the circuit court has found that there was no attorney error. Because there was no attorney error or other good cause for the failure to file a timely notice of appeal established in the motion, we need not consider further appellant's request to proceed with an appeal.

Motion denied.

BROWN, J., not participating.