

SUPREME COURT OF ARKANSAS

No. CR-14-1060

EDMOND MCCLINTON

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered May 7, 2015

MOTION FOR RULE ON CLERK

MOTION TREATED AS MOTION
FOR BELATED APPEAL; GRANTED.**PER CURIAM**

Appellant Edmond McClinton, through his attorney, Gary W. Potts, has filed a motion for rule on clerk. McClinton seeks to file a belated appeal of his conviction for rape, which resulted in McClinton receiving a sentence of life imprisonment. After his conviction, McClinton failed to file a timely notice of appeal. In his motion for rule on clerk, McClinton's attorney admits that the failure was an oversight and accepts all responsibility for the error. Because a timely notice of appeal was not filed, we treat the motion for rule on clerk as a motion for belated appeal pursuant to Rule 2(e) of the Rules of Appellate Procedure—Criminal (2014). *Holcomb v. State*, 2013 Ark. 313 (per curiam).

According to Rule 2(e), the appellant's failure to take the necessary steps to secure review of the appealed conviction shall not affect the validity of the appeal but shall be ground only for such action as this court deems appropriate. In *McDonald v. State*, we explained as follows:

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 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.

356 Ark. 106, 116, 146 S.W.3d 883, 891 (2004).

When it is plain from the motion that relief is proper based on either error or for good reason, the relief will be granted. *Id.* at 117, 146 S.W.3d at 892. If there is attorney error, a copy of the opinion will be forwarded to the Committee on Professional Conduct. *Id.* In this case, McClinton's attorney, Gary W. Potts, has candidly admitted that he missed the filing date for the notice of appeal and has accepted responsibility for the error. Therefore, the motion for belated appeal is granted, and a copy of this opinion will be forwarded to the Committee on Professional Conduct.

It is so ordered.