

Cite as 2015 Ark. 320

SUPREME COURT OF ARKANSAS

No. CR-15-608

KAREEM MUHAMMAD

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered September 17, 2015

MOTION TO LODGE WITHOUT
PREPAYMENT AND WITH
BELATED NOTICE OF APPEALMOTION GRANTED.**PER CURIAM**

Appellant Kareem Muhammad, by and through his attorney David O. Bowden, brings this motion for belated appeal.¹ Muhammad seeks to appeal the sentencing order entered on April 28, 2015, reflecting convictions for robbery and theft of property and a sentence of 144 months in the Arkansas Department of Correction. Pursuant to Arkansas Rule of Appellate Procedure—Criminal 2(a)(1) (2014), a notice of appeal must be filed within thirty days from the date of entry of a judgment. Here, Bowden filed the notice of appeal on June 15, 2015, eighteen days after it was due.

When an attorney candidly admits fault for failing to perfect an appeal, we will grant the motion for belated appeal, and a copy of the opinion will be forwarded to the Committee

¹The motion is styled as a Motion To Lodge Without Prepayment And With Belated Notice of Appeal. Although we are unsure what Muhammad seeks to lodge without prepayment, we have stated that, “[i]n determining what a motion is, we look to content and substance—not to titles.” *Haynes v. State*, 311 Ark. 651, 654, 846 S.W.2d 179, 181 (1993). In the instant case, the body of the motion addresses only the filing of a belated appeal.

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on Professional Conduct. *See McDonald v. State*, 356 Ark. 106, 146 S.W.3d 883 (2004); *see also Gossett v. State*, 375 Ark. 240, 241, 289 S.W.3d 463, 464 (2008) (per curiam) (“Despite Appellant’s failure to properly perfect this appeal, the State cannot penalize a criminal defendant by declining to consider his first appeal when counsel has failed to follow an appellate rule.”). Bowden states that he filed a notice of appeal via e-Flex on or about April 29, 2015, but when he later reviewed the online record, “it appeared that the notice of appeal had not been filed.” Bowden further states that he accepts full responsibility for failing to ensure that the notice of appeal was filed. Accordingly, we grant the motion and forward a copy of this opinion to the Committee.

We note that, on other occasions, we have referred Bowden to the Committee when he failed to follow rules of procedure. *See Russell v. State*, 2012 Ark. 431 (per curiam) (granting motion to file belated brief); *Russell v. State*, 2012 Ark. 284 (per curiam) (granting motion for rule on clerk); *Brown v. State*, 373 Ark. 453, 284 S.W.3d 481 (2008) (per curiam) (granting motion to file belated brief). We urge Bowden to be mindful of his duty to act with reasonable diligence and promptness in representing a client. *See Ark. R. Prof'l Conduct 1.3* (2014). Competent representation requires knowledge of, and adherence to, time limits imposed in rules of procedure. *See Ark. R. Prof'l Conduct 1.1*.

Motion granted.