

Cite as 2011 Ark. 24

SUPREME COURT OF ARKANSAS

No. CR 10-1045

SHAWNA BIDDLE,

APPELLANT,

VS.

STATE OF ARKANSAS,

APPELLEE,

Opinion Delivered January 27, 2011

MOTION FOR BELATED APPEAL
TREATED AS MOTION TO FILE
BELATED BRIEF,

GRANTED.

PER CURIAM

Appellant Shawna Biddle, by and through her attorney, Mark Cash, moves this court to file a belated brief. A judgment and commitment order was entered on September 10, 2009. No direct appeal was taken.

On October 8, 2009, Biddle filed a pro se petition for reduction of her sentence of twenty-five years on ten counts of rape, claiming that she was unaware that the seventy-percent rule applied. The circuit court treated Biddle's petition as one for post-conviction relief under Rule 37 of the Arkansas Rules of Criminal Procedure. On April 15, 2010, the circuit court denied Biddle's petition for reduction of her sentence, and Biddle timely appealed that order.

The record was lodged on October 11, 2010, and the brief was due, after a seven-day extension, on November 29, 2010. On November 22, 2010, a final extension made the brief due on January 6, 2011. On January 7, 2011, counsel filed this motion for belated appeal.

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Because the record was lodged in a timely fashion, we will treat this motion as a motion to file a belated brief.

To prevent an appeal from being aborted, we will accept a belated brief from a criminal appellant if good cause is shown to grant the motion. *See Travis v. State*, 2009 Ark. 242, 308 S.W.3d 566 (per curiam). In Biddle's motion, counsel stated that he had "another round of heart failure" during the time covered by the final extension. Because good cause is shown, the motion is granted.

Motion granted.