

Cite as 2010 Ark. 213

SUPREME COURT OF ARKANSAS

No. CV-10-396

ANNA LEONARD

APPELLANT

V.

ARKANSAS DEPARTMENT OF
HUMAN SERVICES

APPELLEE

Opinion Delivered May 6, 2010

MOTION FOR RULE ON CLERK

GRANTED.

PER CURIAM

Appellant, Anna Leonard, by and through her attorney, Deborah Sallings, has filed a motion for rule on clerk. The circuit court entered an order on January 19, 2010, terminating Leonard's parental rights. Leonard filed her notice of appeal on February 2, 2010.

Pursuant to Arkansas Supreme Court Rule 6-9(d) (2009), in dependency-neglect cases, the record on appeal shall be filed with the Clerk of the Supreme Court within seventy days of the filing of the notice of appeal. Here, the record was not tendered until April 15, 2010, two days after it was due.

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 stated 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 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. at 116, 146 S.W.3d at 891 (footnote omitted). While this court no longer requires an affidavit admitting fault before we will consider the motion, an attorney should candidly admit fault where he or she has erred and is responsible for the failure to perfect the appeal. *See McDonald*, 356 Ark. 106, 146 S.W.3d 883. When it is plain from the motion, affidavits, and record that relief is proper under either rule based on error or good reason, the relief will be granted. *See id.* If there is attorney error, a copy of the opinion will be forwarded to the Committee on Professional Conduct. *See id.*

Leonard's counsel admits fault within the motion. Pursuant to *McDonald*, we grant the motion for rule on clerk and forward a copy of this opinion to the Arkansas Supreme Court Committee on Professional Conduct.

Motion granted.

No briefs filed.