

Cite as 2011 Ark. 117

SUPREME COURT OF ARKANSAS

No. 11-225

EARNEST MCGAUGHEY,
APPELLANT,

VS.

ARKANSAS DEPARTMENT OF
HUMAN SERVICES,
APPELLEE,**Opinion Delivered** MARCH 17, 2011

MOTION FOR RULE ON CLERK

GRANTED.**PER CURIAM**

Appellant Earnest McGaughey, by and through his attorney, has filed a motion for rule on clerk. His attorney, Rachel A. Runnels, candidly admits fault for not timely filing the record in this case wherein Appellant's parental rights have been terminated.

We now entertain motions for rule on clerk in appeals from the termination of parental rights. *See Moore v. Ark. Dep't of Human Servs.*, 363 Ark. 205, 212 S.W.3d 1 (2005) (per curiam). In *Moore*, we explained as follows:

While this court has in the past denied such motions in parental-termination cases due to their civil nature, we recently recognized a parent's right to appeal from a termination order in *Linker-Flores v. Arkansas Dep't of Human Servs.*, 359 Ark. 131, 194 S.W.3d 739 (2004). We have further recognized an indigent parent's right to counsel on appeal. *See Linker-Flores v. Arkansas Dep't of Human Servs.*, 356 Ark. 369, 149 S.W.3d 884 (2004) (per curiam). In addition, we have allowed the payment of attorney's fees for an attorney who represented an indigent parent on appeal. *See Baker v. Arkansas Dep't of Human Servs.*, 340 Ark. 42, 8 S.W.3d 499 (2000). In *Baker*, we found that the principles that require the payment of attorney's fees for representing an indigent criminal defendant were applicable to termination cases as well. *See id.* Because of our prior decisions in these cases which afford indigent parents appealing from a termination of parental rights similar protections as those

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afforded indigent criminal defendants, we recently permitted the filing of an untimely record in a termination case using our procedure for a motion for rule on clerk by an indigent criminal defendant. See *Childers v. Arkansas Dep't of Human Servs.*, 361 Ark. 227, 205 S.W.3d 795 (2005) (per curiam).

Moore, 363 Ark. at 206, 212 S.W.3d at 1.

Attorney Runnels has candidly admitted fault for failing to timely file the record in this case due to a mistake on her part. Consistent with our procedure for indigent criminal defendants, we therefore grant the rule on clerk. *Moore*, 363 Ark. 205, 212 S.W.3d 1; *McDonald v. State*, 356 Ark. 106, 146 S.W.3d 883 (2004). We forward a copy of this opinion to the Committee on Professional Conduct.

Motion for rule on clerk granted.