

Cite as 2010 Ark. 320

**SUPREME COURT OF ARKANSAS**

No. CR10-53

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| DEREK K. SALES,    | APPELLANT, |
| VS.                |            |
| STATE OF ARKANSAS, | APPELLEE,  |

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| <p>Opinion Delivered 8-6-2010</p> <p>MOTION TO FILE BELATED BRIEF</p> <p>MOTION GRANTED.</p> |
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**PER CURIAM**

Derek Sales was convicted of capital murder and aggravated robbery and was sentenced to death and life imprisonment, respectively. This court affirmed the convictions and sentence on direct appeal. *Sales v. State*, 374 Ark. 222, 289 S.W.3d 423 (2008). Sales then filed a motion for post-conviction relief in circuit court, which was denied. Sales now appeals from the denial of his Rule 37.5 petition.

Appellant’s brief was originally due on February 24, 2010. He received a seven-day extension, making his brief due on March 3, 2010. On March 3, 2010, Sales requested a sixty-day extension, and the court granted a final extension of thirty-eight days. The brief was then due on April 10, 2010. On April 12, 2010, appellant’s counsel requested another extension, which was denied. On June 14, 2010, counsel tendered appellant’s brief and filed

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the instant motion to file a belated brief.

Appellant's counsel provides many reasons why the brief was tendered late in the instant case. However, it is clear that the delay was the result of attorney error, and under *McDonald v. State*, 356 Ark. 106, 146 S.W.3d 883 (2004), we grant the motion for belated appeal and refer appellant's attorney to the Committee on Professional Conduct. *See also Brown v. State*, 373 Ark. 453, 284 S.W.3d 481 (2008).