

SUPREME COURT OF ARKANSAS

No. 08-315

ANDRE KELLY,

APPELLANT,

VS.

DEBORAH FORD,

APPELLEE,

Opinion Delivered 9-4-08

MOTION FOR RULE ON CLERK

DENIED.

PER CURIAM

In a per curiam delivered on April 3, 2008, this court remanded this case to the circuit court for proof of compliance with Arkansas Rule of Appellate Procedure – Civil 5(b)(1)(C). We asked the court to determine if the rule was complied with at the time a motion for extension of time to file the record was filed and granted by the trial court. *See McGahey v. State*, ____ Ark. ____, ____ S.W.3d ____ (Dec. 13, 2007) (per curiam).

In its order on remand, the trial court finds that it did not, at the time the original motion for extension of time was filed and granted, comply with the requirements of Ark. R. App. P. – Civ. 5(b)(1)(C). No hearing was held, and neither Ms. Ford, nor her attorney, was given an opportunity to be heard or even respond to the motion prior to the entry of the order granting the extension.

We have made it clear that there must be strict compliance with the requirements of Rule 5(b). *See Roy v. State*, 367 Ark. 178, 238 S.W.3d 117 (2006) (per curiam); *White v. State*, 366 Ark. 295, 234 S.W.3d 882 (2006) (per curiam). Because the requirements were not

met in this case, the motion for rule on clerk filed by the appellant is denied, and the case is dismissed.