

SUPREME COURT OF ARKANSAS

No. CR-15-274

JONATHAN BERKS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered October 22, 2015

APPELLEE'S MOTION TO DISMISS
APPEAL[GARLAND COUNTY CIRCUIT
COURT, NO. 26CR-10-248]HONORABLE JOHN HOMER
WRIGHT, JUDGEMOTION DENIED; BRIEFING
SCHEDULE TO BE SET.**PER CURIAM**

Appellant Jonathan Berks filed a motion in this court to proceed with a belated appeal of the dismissal of his timely petition under Arkansas Rule of Criminal Procedure 37.1 (2014). Because Berks was not provided timely notice of an order that disposed of a motion for a ruling on omitted issues, the motion was granted. *Berks v. State*, 2015 Ark. 234, 463 S.W.3d 289 (per curiam). The appellee State has now filed a motion to dismiss the appeal on the basis that Berks failed to file a brief. We deny the motion.

Although the State asserts that Berks has failed to timely file his brief, through clerical error, no briefing schedule was set. Berks has therefore not failed to submit a timely brief, and our clerk is again directed to set a briefing schedule.

Motion denied; briefing schedule to be set.