

Cite as 2009 Ark. 486

SUPREME COURT OF ARKANSAS

No. CR08-262

WILLIE CLARENCE McLEOD,
APPELLANT,

VS.

STATE OF ARKANSAS,
APPELLEE,**Opinion Delivered** October 8, 2009MOTION FOR EXTENSION OF
TIME TO FILE SUBSTITUTED BRIEFGRANTED.**PER CURIAM**

Appellant, Willie Clarence McLeod, by and through his attorney, Brian Williams, has filed a motion for extension of time to file his substituted brief. McLeod's appeal was certified to this court by the court of appeals on June 26, 2009. Following certification, our clerk's office wrote to counsel to notify him that the addendum that he had filed did not include the trial court's order denying McLeod's pro se motion for postconviction relief or the notice of appeal filed from that order. Therefore, counsel was ordered to file, within fifteen days, a substituted brief that included those two documents. That substituted brief was due on July 11, 2009.

On June 15, 2009, counsel was diagnosed with cancer and underwent surgery in August. In addition, in July, counsel experienced other serious family health problems and, as a result, he did not file his substituted brief by the July 11, 2009 deadline. On September 18, 2009, our clerk's office wrote to counsel to inform him that, if the court did not receive

CR08-262

Cite as 2009 Ark. 486

a brief and a motion to file a belated brief within ten days, the clerk's office would be "compelled to report this matter to the court for any action [it] deem[s] to be appropriate."

Counsel filed the instant motion on September 28, 2009, outlining his reasons for being late in filing his substituted brief and asking the court for an additional forty-five days in which to file the brief. We will accept a criminal appellant's belated brief to prevent an appeal from being aborted. *Johnson v. State*, 374 Ark. 219, 296 S.W.3d727 (2008) (per curiam); *Brown v. State*, 373 Ark. 453, 284 S.W.3d 481 (2008) (per curiam). However, good cause must be shown to grant the motion. *Strom v. State*, 356 Ark. 224, 147 S.W.3d 689 (2004) (per curiam) (holding that appellate counsel's admitted failure to timely file the brief constituted good cause to grant motion for belated brief).

Counsel acknowledges that he has failed to file the substituted brief as scheduled. Accordingly, we grant his motion for additional time. However, we feel that forty-five days is excessive, and grant counsel fifteen days to file the substituted brief. In addition, we refer the matter to the Supreme Court Committee on Professional Conduct for any appropriate action.