

Cite as 2010 Ark. 324

**SUPREME COURT OF ARKANSAS**

No. CR10-749

SHIRLEY A. TAYLOR

V.

STATE OF ARKANSAS

**Opinion Delivered** September 9, 2010

MOTION FOR RULE ON CLERK

GRANTED.**PER CURIAM**

Appellant Shirley A. Taylor filed a motion for rule on clerk to file her record and have her appeal docketed. The clerk refused to accept the record due to a perceived failure to comply with Ark. R. App. P.–Crim. 4(c) (2010).

A jury found Appellant guilty on March 5, 2010. The judgment and commitment order was filed on March 22, 2010. Though the notice of appeal was filed on March 8, 2010, it was deemed filed on March 23, 2010. Ark. R. App. P.–Crim. 2(b)(1) (2010) states: “A notice of appeal filed after the trial court announces a decision but before the entry of the judgment or order shall be treated as filed on the day after the judgment or order is entered.”

On June 1, 2010, Appellant filed a timely motion for extension of time. The motion for extension was granted and the time to file the record was extended to July 8, 2010. On July 2, 2010, Appellant tendered the record.

Currently Ark. R. App. P.–Crim. 4(c)(1) governs extensions of time for filing the record in a criminal case. Ark. R. App. P.–Crim. 4(c)(1) states:

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A motion by the defendant for an extension of time to file the record shall explain the reasons for the requested extension, and a copy of the motion shall be served on the prosecuting attorney. The circuit court may enter an order granting the extension if the circuit court finds that all parties consent to the extension and that an extension is necessary for the court reporter to include the stenographically reported material in the record on appeal. If the prosecuting attorney does not file a written objection to the extension within ten (10) days after being served a copy of the extension motion, the prosecuting attorney shall be deemed to have consented to the extension, and the circuit court may so find. Ark. R. App. P.–Crim. 4(c)(1).

Under Ark. R. App. P.–Crim. 4(c)(1), which now governs extensions of time to file the record in a criminal case, the circuit court may grant the motion extending time if all parties consent and if the extension is necessary for the court reporter to include the stenographically reported material in the record on appeal.

Here, Appellant in her motion admits to causing some delay; however, the court reporter says that the court schedule was a factor. The court's order makes the findings required under Ark. R. App. P.–Crim. 4(c)(1). The motion was timely and a reason other than Appellant's delay supported extension. Both the motion and the circuit court's order comply with Ark. R. App. P.–Crim. 4(c)(1). Thus, this motion is granted and the clerk is ordered to lodge the record.

CORBIN, J., not participating.