

COURT OF APPEALS OF ARKANSAS

Thomas Whitt v. State of Arkansas

Whitt, 2025 Ark. App. 588 (Ark. Ct. App. 2025) · No. CR-25-709 · Decided December 3, 2025

SUMMARY

The Arkansas Court of Appeals addresses a motion for rule on clerk in Thomas Whitt's criminal appeal. In a concurring opinion, Judge Brandon J. Harrison criticizes recurring failures by defense counsel to timely file appellate records and notices of appeal, and states that referrals to appropriate authorities may increase.

CASE DETAILS

COURT	Court of Appeals of Arkansas
WRITING FOR THE COURT	Brandon J. Harrison
JURISDICTION	Arkansas Court of Appeals
DECIDED	December 3, 2025
DOCKET	CR-25-709
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from the Sevier County Circuit Court; the opinion concerns a motion for rule on clerk.
PRECEDENTIAL VALUE	Published
PARTIES	Thomas Whitt v. State of Arkansas

TOPICS

- appellate procedure
- appellate jurisdiction
- criminal procedure

PRACTICE AREAS

- criminal appellate procedure
- professional responsibility

QUESTIONS PRESENTED

- Whether the motion for rule on clerk should be granted in connection with the appellant's direct appeal.
- What professional consequences may follow from recurring failures by criminal-defense counsel to timely file appellate records and notices of appeal.

KEY QUOTATIONS

“The lack of care shown to jurisdictional details, like the rather mundane but critical task of filing a record on appeal on time, is ballooning to the point of bursting.” (at 1)

“Most failures to complete these professional obligations are not egregious—but rest assured an increasing number of them are so; and they surely prejudice defendants who have a right to a timely direct appeal.” (at 1)

“Referrals to the appropriate authority will increase if this trend is not arrested, and quickly so.” (at 1)

FACTUAL BACKGROUND

The opinion concerns appellate filing and jurisdictional problems in a criminal appeal, including the timely filing of the record on appeal and notice of appeal. The underlying facts of the criminal case are not stated in the opinion. The concurrence focuses on counsel's professional obligations and the potential prejudice to defendants from delayed direct appeals.

PROCEDURAL HISTORY

Thomas Whitt appealed from the Sevier County Circuit Court, case number 67CR-24-25. The Arkansas Court of Appeals granted the motion for rule on clerk. Judge Brandon J. Harrison concurred in that decision and expressed concern about recurring failures by criminal-defense counsel to timely file appellate records and notices of appeal.

DISPOSITION

other

OPINION

PER CURIAM.

Cite as 2025 Ark. App. 588 ARKANSAS COURT OF APPEALS No. CR-25-709 THOMAS WHITT Opinion Delivered December 3, 2025 APPELLANT APPEAL FROM THE SEVIER V. COUNTY CIRCUIT COURT [NO. 67CR-24-25] STATE OF ARKANSAS APPELLEE HONORABLE BRYAN CHESSHIRE, JUDGE MOTION FOR RULE ON CLERK CONCURRING OPINION BRANDON J. HARRISON, Judge Dear Criminal Defense Lawyers: Please Do Better.

The lack of care shown to jurisdictional details, like the rather mundane but critical task of filing a record on appeal on time, is ballooning to the point of bursting. Just look at a few months' worth of the syllabi, and the case is made. Examine closely two years' worth of syllabi and one can justifiably wonder what took a judge so long to speak up. A second concern that is occurring more frequently is the failure to file a timely notice of appeal when directed to do so.

Most failures to complete these professional obligations are not egregious—but rest assured an increasing number of them are so; and they surely prejudice defendants who have a right to a timely direct appeal. Referrals to the appropriate authority will increase if this trend is not arrested, and quickly so. You are on notice. I take no pleasure in this opinion; but my duty (as I see it anyway) demands that I communicate loudly and clearly enough to, hopefully, make a difference.

For everyone's sake. Having said all this, I join the court's decision to grant the motion for rule on clerk. 2