

SUPREME COURT OF ARKANSAS

Brian K. Walker v. State of Arkansas

331 S.W.3d 587 (Ark. 2009) · No. CR 09-934 · Decided September 17, 2009

SUMMARY

The Supreme Court of Arkansas granted Brian K. Walker's motion for rule on clerk, holding that the record-extension requirements under Arkansas Rule of Appellate Procedure–Criminal 4(c) were sufficiently met. The court denied appointed counsel's motion to be relieved because counsel did not establish that withdrawal was warranted in the interest of justice or for other sufficient cause.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Arkansas
DECIDED	September 17, 2009
DOCKET	CR 09-934
DISPOSITION	other
PROCEDURAL POSTURE	After being convicted by a jury in Pulaski County Circuit Court and sentenced as a habitual offender, Appellant filed a motion for rule on clerk after the appellate clerk refused to accept the record because the extension order did not state that all parties consented. Appellant's counsel also moved to withdraw.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Brian K. Walker v. State of Arkansas

TOPICS

- appellate procedure
- criminal procedure
- right to counsel

PRACTICE AREAS

- criminal appellate procedure
- criminal procedure
- appointed appellate counsel

QUESTIONS PRESENTED

1. Whether the record should be accepted under Arkansas Rule of Appellate Procedure—Criminal 4 when the extension motion was served on the prosecuting attorney, no objection was filed, and counsel asserted that both parties had been notified and did not object.
2. Whether appellate counsel demonstrated interest of justice or other sufficient cause to withdraw under Arkansas Rule of Appellate Procedure—Criminal Rule 16.

HOLDINGS

1. The requirements of Rule 4(c) were sufficiently satisfied under the circumstances, so the motion for rule on clerk was granted.
2. Counsel's motion to be relieved was denied because merely stating that the trial court had declared Appellant indigent did not establish that withdrawal was in the interest of justice or supported by other sufficient cause.

KEY QUOTATIONS

“The motion for rule on clerk is granted; the motion to be relieved as counsel is denied.” (588)

FACTUAL BACKGROUND

Brian K. Walker was convicted by a jury of rape and sentenced as a habitual offender to 480 months' imprisonment. His counsel timely filed a notice of appeal and moved for an extension of time to file the record because the court reporter could not complete the record by the original due date. Although the motion was served on the prosecuting attorney and counsel asserted that neither party objected, the appellate clerk rejected the tendered record because the motion and order did not expressly state that all parties consented. Counsel separately sought withdrawal based only on the trial court's declaration that Walker was indigent.

PROCEDURAL HISTORY

Appellant was tried in Pulaski County Circuit Court, convicted of rape, and sentenced to 480 months' imprisonment as a habitual offender. Counsel timely filed a notice of appeal and obtained a circuit-court extension of time to file the record after the court reporter could not complete it by the original deadline. The Supreme Court of Arkansas granted the motion for rule on clerk but denied counsel's motion to be relieved because counsel showed no interest-of-justice or other sufficient cause for withdrawal.

DISPOSITION

other

CASES CITED

- Reid v. State, 375 Ark. 68, 289 S.W.3d 54 (2008) (per curiam)
- Tice v. State, 365 Ark. 410, 230 S.W.3d 557 (2006) (per curiam)
- In re Rules of Supreme Court and Court of Appeals, Rule 4-3; Rules of Appellate Procedure—Criminal, Rule 4; and Rules of Criminal Procedure, Rule 24.3, 374 Ark. App'x 566 (Sept. 18, 2008)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/arkansas-supreme-court-of-arkansas/2009/brian-k-walker-v-state-of-arkansas-rbje79c0>