

William TERRY *v.* STATE of Arkansas

613 S.W. 2d 90

Supreme Court of Arkansas  
March 23, 1981

CRIMINAL PROCEDURE — MOTION FOR RULE ON CLERK — AFFIDAVIT BY ATTORNEY ADMITTING MISTAKE ON HIS PART IN LATE TENDER OF RECORD — GOOD CAUSE FOR GRANTING MOTION. — An affidavit by an attorney for a criminal defendant attached to a motion for rule on the clerk admitting that the record was tendered late due to a mistake on the attorney's part is good cause to grant the motion.

Motion for rule on clerk; motion granted.

*E. Alvin Schay*, State Appellate Defender, by: *Jack R. Kearney*, Deputy Defender, for appellant.

*Steve Clark*, Atty. Gen., for appellee.

PER CURIAM. Appellant William Terry, by his attorney, has again filed for a rule on the clerk. In a *per curiam* opinion issued March 16, 1981, we denied a similar motion. His attorney, E. Alvin Schay, has attached an affidavit admitting that the record was tendered late due to a mistake on his part.

We find that such an error, admittedly made by the attorney for a criminal defendant, is good cause to grant the motion. See our *per curiam* opinion dated February 5, 1979, 265 Ark. 964, In Re: Belated Appeals in Criminal Cases.

A copy of this opinion will be forwarded to the Committee on Professional Conduct.