

2. *Speedy trial*

The appellant argued at his first trial that he had been deprived of his right to a speedy trial. The appellant was free on bond, and the trial was held within the eighteen-month limit prescribed by Ark. R. Crim. P. 28.1(c). The court ruled against him on this point, and he did not appeal that ruling. The appellant now argues that the delay caused the loss of some physical evidence taken during the alleged victim's medical examination which would have been helpful to him in the second trial.

[2] Assuming we are in a position to review this point, we would have to find a strong showing of prejudice to hold the delay short of the eighteen-month period was a violation of the speedy trial right. *Matthews v. State*, 268 Ark. 484, 598 S.W.2d 58 (1980). We find no such showing here. The appellant does not explain the manner in which his cross examination of the physician who took the evidence would have been enhanced had the evidence been available.

Affirmed.

James Edwin CLARK v. STATE of Arkansas

717 S.W.2d 491

Supreme Court of Arkansas
Opinion delivered October 13, 1986

APPEAL & ERROR — MOTION FOR RULE ON THE CLERK — GOOD CAUSE FOR GRANTING. — An admission by an attorney for a criminal defendant that the record was tendered late due to a mistake on her part, is good cause to grant a motion for rule on the clerk.

Motion for Rule on the Clerk; granted.

Hanks, Gunn & Borgognoni, by: *Mary Ann Gunn*, for appellant.

No objection.

PER CURIAM. Appellant, James Edwin Clark, by his attorney, Mary Ann Gunn, has filed a second motion for rule on the

clerk.

We denied the first motion because appellant's attorney did not take responsibility for tendering the record late. *Clark v. State*, 289 Ark. 382, 711 S.W.2d 162 (1986).

This second motion admits that the record was not timely filed and it was no fault of the appellant. His attorney accepts full responsibility for not perfecting the appeal on time.

[1] 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, *In Re: Belated Appeals in Criminal Cases*, 265 Ark. 964 (1979).

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