

Lee Charles LEWIS *v.* STATE of Arkansas

CR 01-1327

64 S.W.3d 753

Supreme Court of Arkansas  
Opinion delivered January 17, 2002

APPEAL & ERROR — MOTION FOR RULE ON CLERK — DENIED. — Where the attorney for a criminal defendant did not admit that the record was tendered late due to a mistake on his part, his motion for rule on the clerk was denied; a statement that it was someone else's fault or no one's fault will not suffice.

Motion for Rule on the Clerk; denied.

*John F. Gibson, Jr.*, for appellant.

No response.

**P**ER CURIAM. Lee Charles Lewis, by his attorney, has filed a motion for rule on the clerk. The motion admits that the record was not timely filed and that it was no fault of the appellant's counsel but rather was due to unforeseen casualty.

[1] This court has held that we will grant a motion for rule on clerk when the attorney admits that the record was not timely filed due to an error on his part. *See, e.g., Tarry v. State*, 288 Ark. 172, 702 S.W.2d 804 (1986). Here, the attorney does not admit fault on his part. We have held that a statement that it was someone else's fault or no one's fault will not suffice. *Clark v. State*, 289 Ark. 382, 711 S.W.2d 162 (1986). Therefore, appellant's motion must be denied.

If the appellant's attorney shall file within thirty days from the date of this *per curiam* a motion and affidavit in this case accepting full responsibility for not timely filing the transcript, the motion will be granted and a copy of the opinion will be forwarded to the Committee on Professional Conduct.

The present motion for rule on the clerk is denied.