

Mark BARNETT v. CITY OF DARDANELLE

CR. 96-538

920 S.W.2d 855

Supreme Court of Arkansas
Opinion delivered May 20, 1996

APPEAL & ERROR — MOTION FOR RULE ON CLERK — GOOD CAUSE FOR GRANTING. — An admission by the attorney for a criminal defendant that the failure to file the record in time was due to a mistake on his part is good cause to grant a motion for rule on the clerk.

Motion for Rule on the Clerk; granted.

Dale W. Finley, for appellant.

No response.

PER CURIAM. Appellant Mark Barnett, by his attorney, Dale W. Finley, has filed for a rule on the clerk. Barnett was found guilty in Yell County Municipal Court, Dardanelle Division, of speeding, minor in possession of alcohol, and driving while intoxicated —

first offense. He appealed these convictions to the Yell County Circuit Court. On January 10, 1996, the circuit court dismissed the appeal and remanded the matter to the Dardanelle Municipal Court for disposition.

On January 30, 1996, Barnett timely filed his notice of appeal to this court from the circuit court's January 10, 1996 order dismissing his appeal. The ninety-day period for filing the record expired on April 30, 1996. However, the record was not filed by that date but rather was tendered on May 6, 1996. Barnett's attorney admits that the failure to file the record in time was due to a mistake on his part.

[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 dated February 5, 1979, *In re: Belated Appeals in Criminal Cases*, 265 Ark. 964; see also *Martin v. City of Searcy*, 322 Ark. 562, 909 S.W.2d 652 (1995). A copy of this opinion will be forwarded to the Committee on Professional Conduct.

DUDLEY, J., not participating.
