

Larry DONIHOO *v.* STATE of Arkansas

CR 95-1194

912 S.W.2d 937

Supreme Court of Arkansas  
Opinion delivered January 16, 1996

1. APPEAL & ERROR — ATTORNEY'S DUTY TO FILE RECORD ON TIME. — It is an attorney's duty to file the record on time.
2. APPEAL & ERROR — RULE ON CLERK. — Where the attorney offered no explanation why the record was late, the supreme court held that if the attorney would concede by affidavit that it was his fault that the record was not filed on time, or if other good cause was shown, then the motion would be granted.

Motion for Rule on the Clerk; denied.

*Garnett E. Norwood*, for appellant.

No response.

PER CURIAM. Larry Donihoo has filed this Motion for Rule on the Clerk through his attorney, Garnett E. Norwood. His attorney does not admit fault, but states that because he timely tendered a partial record, he is entitled to have the record filed and the case docketed by the Clerk.

The chronology of this appeal is as follows:

Judgment and Commitment Order	
Entered	4/28/95
Notice of Appeal and Designation of Record	5/23/95
Order for Extension of Time to prepare transcript to November 15, 1995	5/31/95
Petition for certiorari filed along with a partial record	11/15/95
Transcript tendered	12/15/95

[1, 2] It is an attorney's duty to file the record on time. In this case, Mr. Donihoo offers no explanation as to why the record was late. *See* Ark. R. App. R. 5. If the attorney will concede by affidavit that it was his fault that the record was not filed on time, or if other good cause is shown, then the motion will be

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135

granted. *Harkness v. State*, 264 Ark. 561, 572 S.W.2d 835 (1978).

Motion denied.

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