

Robin V. SCHLESIER *v.* STATE of Arkansas

CR 97-399

942 S.W.2d 259

Supreme Court of Arkansas  
Opinion delivered April 28, 1997

1. APPEAL & ERROR — MOTION FOR RULE ON CLERK — WHEN GRANTED. — The supreme court will grant a motion for rule on the clerk when the attorney admits that the record was not timely filed due to an error on his part.
2. APPEAL & ERROR — MOTION FOR RULE ON CLERK — FAILURE TO ADMIT FAULT — MOTION DENIED. — Where appellant's attorney did not admit fault on his part, the supreme court denied appellant's motion for rule on the clerk; a statement that it was someone else's fault or no one's fault will not suffice.
3. APPEAL & ERROR — MOTION FOR RULE ON CLERK — CONDITIONS FOR GRANTING. — Appellant's attorney was directed to file a motion and affidavit within thirty days accepting full responsibility for not timely filing the transcript.

Motion for Rule on the Clerk; denied.

*Ralph M. Cloar, Jr.*, for appellant.

No response.

PER CURIAM. Robin K. Schlesier, by her attorney, has filed a motion for rule on the clerk.

The motion admits that the record was not timely filed and further alleges that the record was not timely filed due to error on the part of the court reporter.

[1, 2] This court has held that we will grant a motion for rule on the 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.

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[3] 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, and upon filing same, 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.

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