

Earl SKILES v. STATE of Arkansas

CR 97-515

945 S.W.2d 368

Supreme Court of Arkansas
Opinion delivered May 27, 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 DENIED — ATTORNEY DID NOT ADMIT FAULT. — Where appellant's attorney did not admit fault on his part in failing to timely file the record, 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.

Motion for Rule on the Clerk; denied.

Keith Watkins, for appellant.

Winston Bryant, Att'y Gen., by: *C. Joseph Cordi, Jr.*, Asst. Att'y Gen., for appellee.

PER CURIAM. Earl Skiles, 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.

[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.

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.
