

Jeremy TURNER *v.* STATE of Arkansas

CR 98-992

973 S.W.2d 480

Supreme Court of Arkansas
Opinion delivered September 10, 1998

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 MUST ACCEPT RESPONSIBILITY. — Where appellant's attorney did not admit fault, the motion for rule on the clerk was denied; a statement that an untimely filing was someone else's fault or no one's fault will not suffice.

Motion for Rule on the Clerk; denied.

David P. Price, for appellant.

No response.

PER CURIAM. Jeremy Turner, by his attorney, David P. Price, 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 fil-

ing 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.
