

Eric DAVIS *v.* STATE of Arkansas

CR. 98-1135

975 S.W.2d 97

Supreme Court of Arkansas
Opinion delivered October 1, 1998

APPEAL & ERROR — MOTION FOR RULE ON CLERK — DENIED. — An admission by an attorney for a criminal defendant that the record was tendered late, without an admission of fault on his part, results in denial of a motion for rule on the clerk.

Motion for Rule on the Clerk; denied.

C. Richard Lippard, for appellant.

No response.

PER CURIAM. Eric Davis, by his attorney, C. Richard Lippard, 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] 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. *See Clark v. State*, 289 Ark. 382, 711 S.W.2d 162 (1986). Therefore, Appellant's motion must be denied.

Appellant's attorney, C. Richard Lippard, 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.
