

Corey SANDERS *v.* STATE of Arkansas

CR 99-628

991 S.W.2d 611

Supreme Court of Arkansas
Opinion delivered June 17, 1999

APPEAL & ERROR — MOTION FOR RULE ON CLERK — DENIED. —

Only an admission by an attorney for a criminal defendant that the record was tendered late due to a mistake on his part is good cause to grant a motion for rule on the clerk; a statement that it was someone else's fault or no one's fault will not suffice; here, the motion for rule on the clerk was denied.

Motion for Rule on the Clerk; denied.

Walker & Dunklin, by: *Larry G. Dunklin* for appellant.

No response.

PER CURIAM. Corey Sanders, 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] 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., Terry 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 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.