

Jimmy EASLEY; Vickey Wagner Easley v.  
STATE of Arkansas

CR 00-144

10 S.W.3d 462

Supreme Court of Arkansas  
Opinion delivered February 24, 2000

1. APPEAL & ERROR — MOTION FOR RULE ON CLERK — WHEN GRANTED. — An admission by an attorney for a criminal defendant that the record was tendered late due to a mistake on his or her part is good cause to grant a motion for rule on the clerk.
2. APPEAL & ERROR — MOTION FOR RULE ON CLERK — DENIED. — A statement that it was someone else's fault or no one's fault that the record was tendered late will not suffice; where the attorney did not admit fault on his part, his motion for rule on the clerk was denied.

Motion for Rule on the Clerk; denied.

*Mathis & DeJanes*, by: *Winston C. Mathis*, for appellants.

No response.

**P**ER CURIAM. Jimmy Easley and Vickey Wagner Easley, by their attorney, have filed a motion for rule on the clerk.

The motion admits that the Easleys' record for appeal was not timely filed and asserts that this was due to a mistake on the part of the attorney, Winston C. Mathis, and the court reporter in failing to request an extension of time to file the record.

[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.

If the appellant's attorney files, 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, the motion for rule on the clerk 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.