

Gregory FISHER v. STATE of Arkansas

CR 03-323

104 S.W.3d 744

Supreme Court of Arkansas
Opinion delivered April 17, 2003

MOTIONS — RULE ON CLERK — DENIED. — 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; a statement that it was someone else's fault or no one's fault will not suffice; where appellant's attorney did not admit fault on his part, appellant's motion was denied.

Motion for Rule on the Clerk; denied.

Charles E. Waldman, for appellant.

No response.

PER CURIAM. [1] Gregory Fisher, by his attorney, Charles E. Waldman, has filed a motion for rule on the clerk. 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 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.
