

Bobby MORGAN *v.* STATE of Arkansas

CR 03-587

113 S.W.3d 80

Supreme Court of Arkansas  
Opinion delivered June 12, 2003

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 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.
2. APPEAL & ERROR — MOTION FOR RULE ON CLERK — DENIED. — Where appellant's counsel failed to accept responsibility for not timely filing the appeal transcript, his motion to file a belated transcript, which was treated as a motion for rule on the clerk, was denied.

Motion to File Belated Transcript (Treated as Motion for Rule on Clerk); denied.

*Erwin L. Davis*, for appellant.

No response.

**P**ER CURIAM. Appellant Bobby Morgan, by and through his attorney, Erwin L. Davis, has filed a motion to file belated appeal transcript, which we will treat as a motion for rule on the clerk. Mr. Davis offers several reasons why the transcript was not timely filed but fails to accept responsibility himself.

[1, 2] This Court has held that we will grant a motion for rule on the clerk when the attorney admits the record was not timely filed due to an error on *his* part. *Terry v. State*, 288 Ark. 172, 702 S.W.2d 804 (1986). 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 same, the motion will be granted and a copy of the opinion will be forwarded to the Committee on Professional Conduct.

---