

Mike FIORANELLI *v.* STATE of Arkansas

598 S.W. 2d 72

Supreme Court of Arkansas

May 5, 1980

APPEAL & ERROR — MOTION FOR RULE ON CLERK — GOOD CAUSE FOR GRANTING, WHAT CONSTITUTES.— An untimely tender of a record admittedly caused by an oversight on the part of an attorney for a criminal defendant constitutes good cause for a delay for which the Supreme Court will grant a motion for a rule on the Clerk.

Motion for Rule on Clerk granted.

PER CURIAM

The appellant, Mike Fioranelli, through his attorney, Thomas L. Cashion of Eudora, Arkansas, has filed a motion for a rule on the Clerk.

In the motion, which is sworn to, Cashion admits that the record was not timely lodged because of an oversight on the part of Cashion.

We have found in the past and acknowledge that such an error, admittedly made by an attorney for a criminal defendant, constitutes good cause for a delay for which we will grant a motion for a rule on the Clerk. In a per curiam opinion regarding belated appeals rendered February 5, 1978, we discussed the problem of an untimely tender of a record caused by an attorney representing a criminal defendant. We decided that we have no alternative but to grant a motion for relief in such a case. However, we pointed out that a copy of the opinion would be forwarded to the Committee on Professional Conduct.

We find good cause exists in this case and forward a copy of our opinion to the Committee on Professional Conduct as is our practice.