

# SUPREME COURT OF ARKANSAS

No. CR 08-1295

TERRANCE QUARTEZ JARRETT,  
APPELLANT,

VS.

STATE OF ARKANSAS,  
APPELLEE,

Opinion Delivered December 4, 2008

MOTION FOR RULE ON CLERK

GRANTED.

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## PER CURIAM

APPEAL & ERROR – RECORD WAS NOT TIMELY FILED – MOTION FOR RULE ON CLERK GRANTED.—  
Appellant’s motion for rule on clerk was granted where the record was not timely filed due to error on the part of appellant’s attorney.

*John W. Settle*, for appellant.

No response.

Terrance Quartez Jarrett, by his attorney, John W. Settle, has filed a motion for rule on clerk. The circuit court entered Jarrett’s judgment and commitment order on July 8, 2008, and Jarrett filed his notice of appeal on July 9, 2008. The record in this matter was thus due to be filed by October 7, 2008. Because the record was not tendered to this court’s clerk until November 5, 2008, it was untimely.

This court recently clarified its treatment of motions for rule on clerk and motions for belated appeals in *McDonald v. State*, 356 Ark. 106, 146 S.W.3d 883 (2004). There we said:

Where an appeal is not timely perfected, either the party or attorney filing the appeal is at fault, or there is good reason that the appeal was not timely

perfected. The party or attorney filing the appeal is therefore faced with two options. First, where the party or attorney filing the appeal is at fault, fault should be admitted by affidavit filed with the motion or in the motion itself. There is no advantage in declining to admit fault where fault exists. Second, where the party or attorney believes that there is good reason the appeal was not perfected, the case for good reason can be made in the motion, and this court will decide whether good reason is present.

356 Ark. at 116, 146 S.W.3d at 891 (footnote omitted). While this court no longer requires an affidavit admitting fault before we will consider the motion, an attorney should candidly admit fault where he or she has erred and is responsible for the failure to perfect the appeal. *See id.* When it is plain from the motion, affidavits, and record that relief is proper under either rule based on error or good reason, the relief will be granted. *See id.* If there is attorney error, a copy of the opinion will be forwarded to the Committee on Professional Conduct. *See id.*

It is plain from Jarrett's motion that there was error on Mr. Settle's part. Pursuant to *McDonald v. State, supra*, we grant Jarrett's motion for rule on clerk and forward a copy of this opinion to the Committee on Professional Conduct.

Motion granted.