

# ARKANSAS SUPREME COURT

No. CR 09-90

HILLIARD NELSON  
Petitioner

v.

DON GLOVER, CIRCUIT JUDGE  
Respondent

Opinion Delivered March 12, 2009

PRO SE MOTION FOR RULE ON  
CLERK TO FILE PETITION FOR WRIT  
OF MANDAMUS WITHOUT  
CERTIFIED RECORD [CIRCUIT  
COURT OF DESHA COUNTY, CR 90-  
6]

MOTION DENIED.

## PER CURIAM

On December 9, 2008, petitioner Hilliard Nelson tendered to this court a petition for writ of mandamus in which he sought a writ compelling Circuit Judge Don Glover to act on a “pending appeal in nunc pro tunc” filed by him in circuit court on February 19, 2008. Petitioner was advised by one of our staff attorneys of the need to submit a certified record and a filing fee or assertion of indigency supported by affidavit. On December 23, 2008, petitioner tendered the mandamus petition with an affidavit of indigency, but he did not provide the certified record necessary to file it. Petitioner was again advised of the need to submit a certified record of the lower court proceedings.

Now before us is petitioner’s motion for rule on clerk, asking that this court direct that the mandamus petition be filed. He contends that he has requested the record but that the lower court has been uncooperative.

Arkansas Supreme Court Rule 6-1(a) provides that in cases in which the jurisdiction of this

court is in fact appellate, although in form original, such as petitions for writs of prohibition, certiorari, or mandamus, the pleadings with certified exhibits from the trial court are treated as the record. *Jackson v. Tucker*, 325 Ark. 318, 927 S.W.2d 336 (1996). Even where a petitioner asserts that he is unable to submit a certified record because he has been denied the record by the circuit clerk or others, the fact remains that without some certified record, there is no basis on which this court can assume jurisdiction of a matter. Accordingly, the motion for rule on clerk is denied.

Motion denied.