ARKANSAS SUPREME COURT

No. CR 08-763

	Opinion Delivered **January 30, 2009**
JERRY L. DODD Petitioner v. STATE OF ARKANSAS, HON. RALPH WILSON, JR., JUDGE Respondent	PRO SE PETITION AND AMENDED PETITIONS FOR WRIT OF MANDAMUS AND PRO SE MOTION TO SUPPLEMENT RECORD [CIRCUIT COURT OF GREENE COUNTY, CR 2003-231] PETITIONS FOR WRIT OF MANDAMUS DENIED; MOTION MOOT.

PER CURIAM

In 2004, petitioner Jerry L. Dodd entered a plea of guilty to first-degree murder, first-degree battery, and possession of methamphetamine. He was sentenced as a habitual offender to an aggregate term of 336 months' imprisonment.

Subsequently, through counsel, he timely filed in the trial court a petition for postconviction relief pursuant to Arkansas Rule of Criminal Procedure 37.1 in 2005. The circuit court below denied the petition in an order filed on May 5, 2005, and no appeal from the order of denial was taken. Now before us are a pro se petition and two amended petitions for writ of mandamus filed in this court,[1] and a pro se motion to supplement the record. As the mandamus petitions are denied, the motion to supplement is moot.

In the mandamus petitions, petitioner asks that we direct the trial court to allow petitioner to

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[1]After initially filing the petition for writ of mandamus, petitioner filed additional pleadings on July 17, 2008, and August 4, 2008, to amend and clarify the petition for writ of mandamus, which we treat as amended mandamus petitions.

file an amended Rule 37.1 petition, to comply with Arkansas Rule of Criminal Procedure 25.3, and to reverse the judgment entered in this matter. As substantive bases in support of issuing the writ, petitioner argues that (1) the trial court failed to inform petitioner that he had the right to withdraw his guilty plea, (2) trial counsel was ineffective, (3) appellant lacked the mental capacity to commit first-degree murder, and (4) the trial court imposed excessive sentences.

As a threshold issue, petitioner maintains that federal law controls Arkansas law in this matter, and compels this court to grant the petition. The federal statute cited by petitioner, concerning the rule-making abilities of courts, applies only to courts established by an Act of the United States Congress. 28 U.S.C. § 2071(a) (2006). As this court was established by the Arkansas Constitution of 1874, the federal statute cited by petitioner has no applicability here, and this court is not mandated by federal or other law to grant the petition.

A writ of mandamus is issued by this court only to compel an official or judge to take some action. *Manila School District No. 15 v. Wagner*, 357 Ark. 20, 159 S.W.3d 285 (2004)*.* To be entitled to the writ, a petitioner must show that he has a clear, legal right to the subject matter and the absence of any other adequate remedy. *Id.* Extraordinary relief, such as a writ of mandamus, is not a substitute for raising an issue on appeal. *Gran v. Hale*, 294 Ark. 563, 745 S.W.2d 129 (1988). In the instant matter, mandamus will not lie because petitioner had adequate remedies available to him, and he thus fails to establish a clear and legal right to the writ. *Manila, supra.*

Petitioner's remedy with regard to the Rule 37.1 petition was to file an appeal from the trial court's adverse order. His failure to do so does not entitle him to substitute a writ of mandamus for an appeal. *Gran, supra.*

Regarding the entry of petitioner's guilty plea and "reversal" of the judgment entered in the

trial court, his remedy was to timely withdraw the plea pursuant to Arkansas Rule of Criminal

Procedure 26.1.[2] An untimely withdrawal motion would have been considered by the trial court as

a postconviction petition under Rule 37.1. *Webb v. State*, 365 Ark. 22, 223 S.W.3d 796 (2006).

With adequate remedies available to him, he is not now entitled to issuance of the writ.

Petitions for writ of mandamus denied; motion moot.

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[2]Criminal Procedure Rule 25.3, relied upon by petitioner, created no right for which he was entitled to seek a remedy.