

ARKANSAS SUPREME COURT

No. CR 08-1370

JOHN LAMB
Petitioner

v.

STATE OF ARKANSAS
Respondent

Opinion Delivered February 12, 2009

PRO SE MOTION TO PROCEED WITH
APPEAL OF ORDER [CIRCUIT
COURT OF GREENE COUNTY, CR
2006-43, HON. BARBARA HALSEY,
JUDGE]

MOTION TREATED AS MOTION FOR
RULE ON CLERK AND DENIED.

PER CURIAM

In 2007, petitioner John Lamb was found guilty by a jury of rape and sentenced to life imprisonment. We affirmed. *Lamb v. State*, 372 Ark. 277, ___S.W.3d___ (2008). Subsequently, petitioner timely filed in the trial court a pro se petition for postconviction relief pursuant to Arkansas Rule of Criminal Procedure 37.1. The petition was denied on June 9, 2008. Petitioner timely filed a notice of appeal from the order on June 23, 2008, but he did not tender the record to this court within ninety days of the date of the notice of appeal as required by Arkansas Rule of Appellate Procedure–Civil 5(a). Now before us is petitioner’s motion seeking leave to lodge the record belatedly and proceed with an appeal of the June 9, 2008, order. We treat the motion as a motion for rule on clerk pursuant to Arkansas Supreme Court Rule 2-2(b).

Petitioner asserts that he should be permitted to proceed with the appeal because he was unaware of procedural rules. He also contends in conclusory fashion that he has been too ill to take the steps necessary to perfect the appeal.

The fact that a petitioner proceeding pro se accepts fault for the late tender of a record is not in itself good cause to permit the belated filing of a record. If a pro se petitioner fails to tender the record in a timely fashion, the burden is on the petitioner to make a showing of good cause for the failure to comply with proper procedure. *See Garner v. State*, 293 Ark. 309, 737 S.W.2d 637 (1987) (per curiam). Proceeding pro se does not constitute good cause for the failure to conform to the prevailing rules of procedure. *Walker v. State*, 283 Ark. 339, 676 S.W.2d 460 (1984) (per curiam); *Thompson v. State*, 280 Ark. 163, 655 S.W.2d 424 (1983) (per curiam); *see Sullivan v. State*, 301 Ark. 352, 784 S.W.2d 155 (1990) (per curiam). We have consistently held that mere lack of familiarity with procedure is not good cause for the failure to follow mandatory procedural rules. *Raines v. State*, 336 Ark. 49, 983 S.W.2d 424 (1999) (per curiam); *Strawbridge v. State*, 327 Ark. 679, 940 S.W.2d 477 (1997) (per curiam). Likewise, a claim of illness that is not supported by documentation is not good cause to permit a belated appeal.

The purpose of the rule setting time limitations on lodging a record is to eliminate unnecessary delay in the docketing of appeals. We have made it abundantly clear that we expect compliance with the rule so that appeals will proceed as expeditiously as possible. *Jacobs v. State*, 321 Ark. 561, 906 S.W.2d 670 (1995) (per curiam) (citing *Alexander v. Beaumont*, 275 Ark. 357, 629 S.W.2d 300 (1982) (per curiam)). As it was the duty of the petitioner to tender the record to this court in a timely manner, and he has not established good cause for his failure to do so, the motion to proceed with the appeal is denied.

Motion treated as motion for rule on clerk and denied.

Brown, J., not participating.