ARKANSAS SUPREME COURT

No. CR 08-1506

Opinion Delivered   **March 19, 2009**

SHAUNTE M. SMITH
    Petitioner

PRO SE PETITION TO REMAND
OR FOR PERMISSION TO FILE A
BELATED APPEAL [CIRCUIT
COURT OF COLUMBIA COUNTY,
CR 2006-115, HON. LARRY
CHANDLER, JUDGE]

v.

STATE OF ARKANSAS
    Respondent

PETITION TREATED AS MOTION
FOR RULE ON CLERK AND
DENIED.

PER CURIAM

In 2007, petitioner Shaunte M. Smith entered negotiated pleas of guilty to first-degree murder and residential burglary and received an aggregate sentence of 600 months' incarceration in the Arkansas Department of Correction. Petitioner timely filed in the trial court a petition for postconviction relief under Arkansas Rule of Criminal Procedure 37.1, which was denied by order entered October 25, 2007. Petitioner filed a notice of appeal on November 15, 2007.

Petitioner has filed in this court a petition requesting remand to the trial court or alternatively leave to proceed with a belated appeal. As the notice of appeal was timely, we treat the motion as a motion for rule on clerk to lodge the record. *See Ray v. State*, 348 Ark. 304, 73 S.W.3d 594 (2002) (per curiam). The time limit set in Arkansas Rule of Appellate Procedure–Civil 5(a), as applied through Arkansas Rule of Appellate Procedure–Criminal 4(a), requires that the record must be tendered to this court within ninety days of the date of the notice of appeal, unless the circuit court granted an extension of time. Here, the record was tendered to our clerk on March 27, 2008, 133

days after the notice of appeal was filed. The record does not reflect any extension of time was granted.

In the petition in which he seeks to proceed with his appeal, petitioner sets out his objections to the trial court's order, stating that (1) he was told by the circuit clerk that the record would be prepared in time but that it was not, (2)he is not represented by counsel, (3) he takes medication that sometimes hinders his ability to think, and (4) he is subject to depression and delusion. He avers that because he presents documents that he claims cast doubt on his competence and sanity, he is entitled to an appeal.

Petitioner appears to argue that the circuit clerk should be responsible to timely file the record. It is not, however, the duty of the circuit clerk, or the responsibility of anyone other than the petitioner, to perfect an appeal. *See Sullivan v. State*, 301 Ark. 352, 784 S.W.2d 155 (1990) (per curiam); *Bragg v. State*, 297 Ark. 348, 760 S.W.2d 878 (1988) (per curiam). Petitioner offers his asserted incompetence and pro se status as reasons for his inability to comply with our rules, but he does not offer a specific explanation as to what aspect of his asserted mental problems allowed him to timely file both his petition for postconviction relief and notice of appeal, but prevented his compliance with the time requirements to lodge the record. All litigants, including those who proceed pro se, must bear responsibility for conforming to the rules of procedure or demonstrating a good cause for not doing so. *Peterson v. State*, 289 Ark. 452, 711 S.W.2d 830 (1986) (per curiam); *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 also Tarry v. State*, 353 Ark. 158, 114 S.W.3d 161 (2003) (per curiam).

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)). Because petitioner has stated no good cause for the failure to comply with our rules and timely lodge the record, we deny his motion.

Petition treated as motion for rule on clerk and denied.