

Clarence E. MIXON v. STATE of Arkansas

94-1013

887 S.W.2d 307

Supreme Court of Arkansas
Opinion delivered November 21, 1994

1. PARDON & PAROLE — CHALLENGES RELATED TO PAROLE MATTERS CIVIL IN NATURE — NO RIGHT TO COUNSEL, BUT MOTION FOR COUNSEL WILL BE ENTERTAINED. — Challenges relating to parole matters are civil in nature, and there is no absolute right to appointment of counsel in civil matters; however, if an appellant makes a substantial showing that he is entitled to relief and that he cannot proceed without counsel, the court will entertain a motion for counsel.
2. APPEAL & ERROR — APPELLANT MADE NO SHOWING THAT THE APPEAL HAD MERIT — MOTION FOR APPOINTMENT OF COUNSEL DENIED. — Where the appellant offered no showing that there was any merit at all to the appeal on the denial of his parole hearing, his request that counsel be appointed was denied and he was given an extension of time in which to file his brief.

Pro Se Motion for Appointment of Counsel and for the Extension of Time to File the Appellant's Brief; motion denied in part and granted in part.

Appellant, pro se.

No response.

PER CURIAM. Appellant Clarence E. Mixon, who is in the custody of the Arkansas Department of Correction as a result of multiple felony convictions, filed a *pro se* petition for writ of declaratory judgment against the Arkansas Board of Parole and Community Rehabilitation, contending that the board had unfairly denied him a parole hearing. The petition was denied, and the record has been lodged in this court on appeal. Appellant now seeks appointment of counsel and an extension of time to file the appellant's brief.

[1, 2] Challenges relating to parole matters are civil in nature, and there is no absolute right to appointment of counsel in civil matters. *See Virgin v. Lockhart*, 288 Ark. 92, 702 S.W.2d 9 (1986). We have held, however, that if an appellant makes a substantial showing that he is entitled to relief and that he cannot pro-

ceed without counsel, we will entertain a motion for counsel. *Howard v. Lockhart*, 300 Ark. 144, 777 S.W.2d 223 (1989). We have adopted a similar practice with respect to handwritten briefs by *pro se* appellants. *Glick v. Lockhart*, 288 Ark. 417, 706 S.W.2d 178 (1986).

As the appellant here has offered no showing that there is any merit at all to the appeal, the request that counsel be appointed is denied. The date for filing the appellant's brief is extended to thirty days from the date of this opinion.

Motion denied in part and granted in part.
