

Joseph MINER and Ronald Harden v. Brenda FURMAN,
Melba Smith-Woodard, Records Supervisor,
and Warden J. D. Reed

94-874

887 S.W.2d 310

Supreme Court of Arkansas
Opinion delivered December 5, 1994

1. APPEAL & ERROR — NO RIGHT TO HANDWRITTEN BRIEF — WHEN HANDWRITTEN BRIEF WILL BE ACCEPTED. — There is no absolute right to file a handwritten brief on appeal; however, if the *pro se* appellant makes a substantial showing that he is entitled to relief and that he does not have access to a typewriter, a legible handwritten brief will be accepted.
2. APPEAL & ERROR — APPOINTMENT OF COUNSEL — CIVIL AND PRO SE POST-CONVICTION CRIMINAL APPEALS. — A similar practice has been adopted with respect to appointment of counsel in civil and *pro se* post-conviction criminal appeals.
3. APPEAL & ERROR — CONCLUSORY STATEMENT OF MERIT INSUFFICIENT — REQUEST TO FILE HANDWRITTEN BRIEF DENIED. — Where appellants state in conclusory fashion that the appeal has merit with no showing that there is substantial merit to the appeal, the request to file a handwritten brief was denied.

Pro Se Motion to File Handwritten Brief and for Extension of Time to File the Appellants' Brief; *Fred Davis*, Judge; denied in part and granted in part.

Appellant, pro se.

No response.

PER CURIAM. Appellants Joseph Miner and Ronald Harden,

who are in the custody of the Arkansas Department of Correction as a result of multiple felony convictions, filed a joint *pro se* petition for writ of mandamus and declaratory judgment against persons employed in the Records Office of the Arkansas Department of Correction and a prison warden, contending that their parole eligibility dates had been miscalculated. The petition was denied, and the record has been lodged in this court on appeal. Appellants now seek leave to file a handwritten appellants' brief and an extension of time to file the brief. They further state that they are unable to provide seventeen copies of the appellants' brief as required by our rules.

[1, 2] There is no absolute right to file a handwritten brief on appeal. See *Green v. State*, 277 Ark. 129, 639 S.W.2d 512 (1982). We have held, however, that if the *pro se* appellant makes a substantial showing that he is entitled to relief and that he does not have access to a typewriter, we will accept a legible handwritten brief. *Glick v. Lockhart*, 288 Ark. 417, 706 S.W.2d 178 (1986); see also *Howard v. Lockhart*, 300 Ark. 144, 777 S.W.2d 223 (1989) and *Hayes v. Lockhart*, 288 Ark. 419, 706 S.W.2d 179 (1986). We have adopted a similar practice with respect to appointment of counsel in civil and *pro se* post-conviction criminal appeals. See *Virgin v. Lockhart*, 288 Ark. 92, 702 S.W.2d 9 (1986).

[3] As the appellants here state in conclusory fashion that the appeal has merit with no showing that there is substantial merit to the appeal, the request to file a handwritten brief 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.