

Brandon SMITH *v.* Hon. Michael MAGGIO

CR 05-260

213 S.W.3d 625

Supreme Court of Arkansas
Opinion delivered September 22, 2005

MANDAMUS — PETITION FOR WRIT OF MANDAMUS — PETITION MOOT. —

Where the circuit court had acted on the matters that were the subject of the mandamus action, the petition for a writ of mandamus was moot.

Pro se Petition for Writ of Mandamus; petition moot.

Appellant, pro se.

No response

PER CURIAM. Brandon Smith filed a *pro se* petition and amended petition for writ of mandamus in this court contending that the Circuit Judge Michael Maggio had failed to act in a timely manner on a series of motions to correct mistake in judgment filed in the Circuit Court of Faulkner County. The first motion was filed by petitioner's attorney on July 15, 2002. The attorney filed a second motion on August 1, 2002. Mr. Smith filed *pro se* motions to correct the judgment on May 8, 2003 and April 4, 2004.

Judge Maggio filed a response to the petition for writ of mandamus, stating that a ruling had been made on the "motion to correct judgment and disposition" on April 13, 2005. The order was entered of record on April 18, 2005, and a copy of it was forwarded to this court.

As there was no explanation in the State's response to the mandamus petition or in the court's order on the motion for the almost three-year delay in acting on the initial motion, we asked

the respondent to file an amended response explaining the failure to act on the motions in a timely manner. *Smith v. Maggio*, CR 05-260 (Ark. May 5, 2005) (*per curiam*).

The amended response explained that in the Twentieth Judicial District, a judge was not made aware of the filing of a pleading until the petitioner contacted the judge's case coordinator and made a formal request for a hearing. Under that procedure, Judge Maggio was not aware of Smith's motions until the mandamus petition was filed here.

In addition to urging the court to establish an efficient procedure to keep its docket current where by each circuit clerk in the judicial district informed the judge of any postconviction motions filed, we requested a second amended response to the mandamus petition because it appeared from the amended response that at least one of the motions filed by petitioner Smith was still pending. We further directed that after a final order was entered on the motion or motions still pending, a second amended response be filed with a copy of the final order appended. *Smith v. Maggio*, CR 05-260 (Ark. May 26, 2005) (*per curiam*).

[1] On June 22, 2005, Judge Maggio entered a final order correcting a clerical error in the judgment of conviction in petitioner Smith's case, and the second amended response was duly filed with a copy of the order appended. As the court has acted on the matters that were the subject of the mandamus action, the petition is moot.

Petition moot

IMBER, J., not participating