

SUPREME COURT OF ARKANSAS

No. CR 11-148

SHERMAN WATSON
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered June 16, 2011

PRO SE MOTION TO ENTER
DOCUMENTS AS EXHIBITS [HOT
SPRING COUNTY CIRCUIT
COURT, CR 2007-278, HON. CHRIS
E WILLIAMS, JUDGE]

REMANDED FOR EVIDENTIARY
HEARING AND FOR FINDINGS OF
FACT.

PER CURIAM

Appellant Sherman Watson appealed the denial of his pro se petition under Arkansas Rule of Criminal Procedure 37.1 (2011). He filed a number of motions concerning the appeal, and this court remanded in order to address a jurisdictional issue raised by the record. *Watson v. State*, 2011 Ark. 202 (per curiam).

The trial court has now returned its findings of fact pursuant to that remand, but has failed to provide a finding concerning the date or dates that appellant's petition under Rule 37.1 was tendered to the circuit clerk. As noted in our previous opinion, that date is significant because there is some indication in the record now before us that the petition was tendered to the clerk prior to the filing date and rejected because appellant failed to pay a partial filing fee. The circuit court did not determine that the petition was tendered to the circuit clerk at any time prior to the filing date, although it found that the petition had been

delivered to the circuit judge and the prosecution earlier than the date of filing. The court did not appear to provide a hearing or take any evidence on this issue.

After the circuit court returned its findings, appellant filed a pro se motion in this court seeking to submit documents for consideration. Because it is apparent from that motion that appellant has evidence that he wishes to submit for consideration concerning the issue, a hearing in the circuit court is appropriate. Accordingly, we remand to the trial court for an evidentiary hearing and for factual findings concerning the date of tender. The circuit court shall return its findings of fact, along with a transcript of the hearing on the matter, within ninety days from the date of this order. Further action on the pending appeal is delayed until the findings and hearing transcript are received.

Remanded for evidentiary hearing and for findings of fact.