

ARKANSAS SUPREME COURT

No. CR 11-743

COURTNEY POLLARD

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered October 13, 2011

PRO SE MOTION FOR
DUPLICATION OF APPELLANT'S
BRIEF AT PUBLIC EXPENSE
[CRITTENDEN COUNTY CIRCUIT
COURT, CR 2007-1165, HON.
RANDY PHILHOURS, JUDGE]

MOTION DENIED.

PER CURIAM

In 2008, appellant Courtney Pollard was found guilty by a jury of murder in the first degree and use of a prohibited weapon. He was sentenced as a habitual offender to consecutive terms of life and 144 months' imprisonment. We affirmed. *Pollard v. State*, 2009 Ark. 434, 336 S.W.3d 866.

Subsequently, appellant timely filed in the trial court a verified pro se petition for postconviction relief pursuant to Arkansas Rule of Criminal Procedure 37.1 (2009), which was denied. Appellant has lodged an appeal from the order in this court. He timely tendered two copies of the appellant's brief with the motion for duplication of brief at public expense that is now before us.¹

¹Arkansas Supreme Court Rule 4-7(d)(1) (2011) requires that the pro se appellant who is incarcerated must submit eight copies of a brief in a postconviction or civil appeal.



Cite as 2011 Ark. 442

Appellant, who is in the custody of the Arkansas Department of Correction and proceeding pro se as an indigent, contends that a prison official where he is incarcerated refuses to duplicate more than two copies of a brief for an appellant if he or she has no funds on account. He further avers in conclusory fashion that his Rule 37.1 petition had merit and was not frivolous. No further statement is made pertaining to the merit of the petition.

A Rule 37.1 proceeding is a civil proceeding, separate and distinct from the underlying criminal conviction. *Ark. Pub. Defender Comm'n v. Greene Cnty. Cir. Ct.*, 343 Ark. 49, 32 S.W.3d 470 (2000); *Dyer v. State*, 258 Ark. 494, 527 S.W.2d 622 (1975). There is no right under our rules or any constitutional provision to have a brief or a portion of a brief in a postconviction or other civil case duplicated at public expense. *See Maxie v. Gaines*, 317 Ark. 229, 876 S.W.2d 572 (1994) (per curiam). Nevertheless, in those cases where the indigent appellant makes a substantial showing in a motion that the appeal has merit and that he or she cannot provide the court with a sufficient number of copies of the brief, we will request that the Attorney General duplicate the brief.

In the motion at bar, appellant has failed to offer any showing of substantial merit to the appeal. Accordingly, he has not shown that the brief should be duplicated at public expense. Our clerk is directed to return the tendered brief to the appellant so that he may duplicate it. Eight copies of the brief are due here no later than fifteen days from the date of this opinion.

Motion denied.