

SUPREME COURT OF ARKANSAS

No. CR 12-433

CHARIELL ALI GLAZE
PETITIONER

V.

HON. DAVID REYNOLDS, CIRCUIT
JUDGE
RESPONDENT

Opinion Delivered September 13, 2012

PRO SE PETITION FOR WRIT OF
MANDAMUS AND APPLICATION
FOR WRIT OF PROHIBITION
[FAULKNER COUNTY CIRCUIT
COURT, 23CR-09-454, 23CR-09-
1138]

PETITION FOR MANDAMUS
DENIED IN PART AND AMENDED
RESPONSE REQUESTED IN PART;
APPLICATION FOR WRIT OF
PROHIBITION DENIED.

PER CURIAM

Petitioner Chariell Ali Glaze filed in this court a pro se petition for writ of mandamus and an application for writ of prohibition, both of which reference two criminal cases filed against him in the Faulkner County Circuit Court. The petition seeks to have this court compel the respondent, the Honorable David Reynolds, Circuit Judge, to act on multiple pleadings filed in the two cases. The application for a writ of prohibition seeks more specifically to compel dismissal of one of the two cases on allegations of a speedy-trial violation. The respondent asserts that both matters are moot because actions by the court and prosecutor in the two cases have disposed of the matters, but that is not so. The issues here are complicated by a tangled procedural history.

In the first of the two cases at issue, CR-09-454, a jury found petitioner guilty of possession of a firearm by certain persons and sentenced him as a habitual offender to 300

months' imprisonment. This court granted a petition for review, and we affirmed in part and reversed and remanded in part, ordering resentencing.¹ *Glaze v. State*, 2011 Ark. 464, 385 S.W.3d 203. Although our opinion directed reversal for resentencing, to the extent that petitioner challenged the judgment of conviction, the judgment was affirmed. *Id.*

Following remand, petitioner filed a number of pro se pleadings, including a premature petition for postconviction relief under Arkansas Rule of Criminal Procedure 37.1 (2011). One of these pleadings sought rulings on pro se pleadings in CR-09-454 and also referenced the second case at issue here, CR-09-1138. In that second case, petitioner was charged with residential burglary, terroristic threatening, and obstructing governmental operations. Although the pleading indicated that the matter had not been resolved in nearly three years, there was no specific reference to a motion for dismissal on a speedy-trial violation, and the record does not contain such a pro se motion.

With his responses to petitioner's petitions for writs of mandamus and prohibition, Judge Reynolds included a copy of a sentencing order that he contends disposed of the proceedings in CR-09-454. Judge Reynolds also provided a copy of an order of nolle prosequi in CR-09-1138 that indicates that the charges were nolle prossed in relation to a guilty plea negotiated in CR-09-454. He asserts that the order of nolle prosequi disposed of the proceedings in CR-09-1138. It is clear, however, that neither order was effective because each was based on petitioner's entry of a guilty plea in proceedings in which he had already

¹Because this court took the case on review, the previous opinion by the Arkansas Court of Appeals was vacated. *See Glaze*, 2011 Ark. 464, 385 S.W.3d 203; *see also Glaze v. State*, 2011 Ark. App. 283, 378 S.W.3d 897.

been tried and convicted. Our holding in the case did not reverse the conviction in CR-09-454, and a negotiated plea was no longer available to petitioner in the case. Because the two orders Judge Reynolds relies on were patently invalid, those orders could not serve to dispose of the proceedings.

Petitioner's application for writ of prohibition is denied, however, regardless of whether CR-09-1138 remains an ongoing proceeding. In that pleading, petitioner asserts that he filed four motions to dismiss that case under Arkansas Rule of Criminal Procedure 28.1 (2011).² The record that he provides, however, does not contain such a motion. Even if we were to treat the application as a petition for writ of certiorari so as to consider petitioner's claim of a speedy-trial violation, petitioner has not brought an adequate record to establish his claim.³ The burden is on a petitioner to bring up a record sufficient to support the petitioner's grounds for relief. *Davis v. State*, 2012 Ark. 70 (per curiam).

As for petitioner's petition for writ of mandamus, the record, as indicated, does not contain the motions that petitioner contends remain outstanding in CR-09-1138, and that portion of the petition is denied. The record does contain five pro se pleadings filed by petitioner in CR-09-454, as follows: (1) a motion to reconsider the judgment and sentence

²Petitioner does not assert a violation in CR 09-454, and it is not clear why that case is referenced in petitioner's application for writ of prohibition.

³Rule 28.1 now provides for interlocutory review of the denial of a motion for dismissal under the rule, where appropriate, by petition for writ of certiorari, and this court will treat a petition for writ of prohibition requesting such relief as one for writ of certiorari. *Murria v. Chandler*, 2011 Ark. 56 (per curiam).

in light of the decisions on appeal; (2) the referenced Rule 37.1 petition;⁴ (3) a motion for transcript; (4) a petition to correct an illegal sentence; (5) a petition for writ of mandamus requesting rulings on petitioner's pro se motions. The trial court had an obligation to provide petitioner with a ruling concerning each of his pro se motions, either striking the motion or otherwise disposing of the motion. See *Brown v. Gibson*, 2012 Ark. 285, 423 S.W.3d 34 (per curiam). Because it is clear that the order referenced by Judge Reynolds did not dispose of the motions, we direct the respondent to provide an amended response addressing the issues raised in the mandamus petition as to these five motions.

Petition for mandamus denied in part and amended response requested in part; application for writ of prohibition denied.

BROWN, J., not participating.

⁴Under Arkansas Rule of Criminal Procedure 37.2(c)(iv), petitioner's petition for postconviction relief under the rule was required to be filed after his resentencing proceedings concluded.