

SUPREME COURT OF ARKANSAS

No. CR-13-514

BRUCE WAYNE BROWN

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered July 23, 2015

PRO SE MOTION TO RESPOND TO
CIRCUIT COURT'S AMENDED
ORDER[GARLAND COUNTY CIRCUIT
COURT, NO. 26CR-10-272]HONORABLE MARCIA R.
HEARNSBERGER, JUDGEREMANDED FOR EVIDENTIARY
HEARING AND FINDINGS OF FACT;
MOTION MOOT.**PER CURIAM**

Appellant Bruce Wayne Brown appealed the denial of his pro se petition for postconviction relief filed pursuant to Arkansas Rule of Criminal Procedure 37.1 (2011). This court remanded the matter for findings of fact to address a jurisdictional issue raised by the record. *Brown v. State*, 2015 Ark. 97.

As we noted in our previous opinion, because the issue of whether the underlying Rule 37.1 petition is properly verified is determinative of our jurisdiction to hear the appeal, remand to the circuit court for factual findings concerning the verification of the petition was necessary. *Id.* On remand, the circuit court entered an amended order dismissing Brown's Rule 37.1 petition for lack of proper verification as required by Arkansas Rule of Criminal Procedure 37.1(c) and (d). It does not appear from the supplemental record returned on remand that the circuit court held a hearing or took any evidence on the matter.

Cite as 2015 Ark. 311

After the circuit court returned its findings of fact, Brown filed the motion that is now before us seeking to respond to the circuit court's amended order. Because it is apparent from the motion that Brown has evidence that he wishes to submit for consideration concerning the verification issue, a hearing in the circuit court is appropriate. Accordingly, we again remand the matter to the circuit court for an evidentiary hearing and for factual findings concerning verification of the petition. Brown's motion is moot. 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 of fact and hearing transcript are received.

Remanded for evidentiary hearing and findings of fact; motion moot.