

Cite as 2009 Ark. 385 (unpublished)

ARKANSAS SUPREME COURT

No. 09-533

STEVE LENN HILL
Petitioner

v.

LARRY NORRIS, DIRECTOR,
ARKANSAS DEPARTMENT OF
CORRECTION
Respondent

Opinion Delivered June 25, 2009

PRO SE MOTION FOR BELATED
APPEAL [CIRCUIT COURT OF
CHICOT COUNTY, CV 2008-149,
HON. ROBERT BYNUM GIBSON,
JR., JUDGE]

MOTION TREATED AS MOTION
FOR RULE ON CLERK AND
DENIED.

PER CURIAM

On November 21, 2008, petitioner Steve Lenn Hill, who is in the custody of the Arkansas Department of Correction by virtue of multiple criminal convictions, filed a pro se petition for writ of habeas corpus in the county where he was incarcerated. On the same day the petition was filed, the court entered an order captioned “Order Denying Petition,” in which the court declared that petitioner’s request to proceed *in forma pauperis* was denied on the ground that the petition was frivolous on its face.¹ Petitioner timely filed a notice of appeal from the order on December 22, 2008, but he did not tender the record to this court within

¹The motion to proceed *in forma pauperis* is not contained in the record tendered with the motion for belated appeal.



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ninety days of the date of the notice of appeal as required by Arkansas Rule of Appellate Procedure—Civil 5(a). Now before us is petitioner’s motion seeking leave to lodge the record belatedly and proceed with an appeal of the November 21, 2008, order. As a notice of appeal was timely filed, we treat the motion as a motion for rule on clerk to lodge the record. *See Johnson v. State*, 342 Ark. 709, 30 S.W.3d 715 (2000) (per curiam); *see also Muhammed v. State*, 330 Ark. 759, 957 S.W.2d 692 (1997) (per curiam).

In the motion, petitioner seeks to be permitted to proceed with the appeal and further asks to be allowed “to start over again” with the motion once he acquires a complete copy of the tendered record. He gives no reason for the failure to tender the record by the date it was due here. If a pro se petitioner fails to tender the record in a timely fashion, the burden is on the petitioner to make a showing of good cause for the failure to comply with proper procedure before being permitted to proceed with the appeal. *See Garner v. State*, 293 Ark. 309, 737 S.W.2d 637 (1987) (per curiam). Proceeding pro se does not in itself constitute good cause for the failure to conform to the prevailing rules of procedure. *Walker v. State*, 283 Ark. 339, 676 S.W.2d 460 (1984) (per curiam); *Thompson v. State*, 280 Ark. 163, 655 S.W.2d 424 (1983) (per curiam); *see Sullivan v. State*, 301 Ark. 352, 784 S.W.2d 155 (1990) (per curiam).

The purpose of the rule setting time limitations on lodging a record is to eliminate unnecessary delay in the docketing of appeals. We have made it abundantly clear that we expect compliance with the rule so that appeals will proceed as expeditiously as possible. *Jacobs v. State*, 321 Ark. 561, 906 S.W.2d 670 (1995) (per curiam) (citing *Alexander v. Beaumont*, 275



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Ark. 357, 629 S.W.2d 300 (1982) (per curiam)). It is not the responsibility of the circuit clerk, or anyone other than the party desiring to appeal, to perfect the appeal. *See Sullivan v. State, supra*. The pro se litigant receives no special consideration on appeal and bears the burden of conforming to the prevailing rules of procedure. *Elliott v. State*, 342 Ark. 237, 27 S.W.3d 432 (2000); *see Gibson v. State*, 298 Ark. 43, 764 S.W.2d 617 (1989).

As it was the duty of the petitioner to tender the record to this court in a timely manner, and he has not established good cause for his failure to do so, the motion to proceed with the appeal is denied.

Motion treated as motion for rule on clerk and denied.