

Cite as 2018 Ark. 210  
**SUPREME COURT OF ARKANSAS**  
No. CV-16-1017

JEREMY S. KENNEDY

APPELLANT

V.

JOHN FELTS, CHAIRMAN, AND  
ARKANSAS PAROLE BOARD

APPELLEES

Opinion Delivered: June 7, 2018

PRO SE APPEAL FROM THE PULASKI  
COUNTY CIRCUIT COURT, SIXTH  
DIVISION

[NO. 60OT-50-6]

HONORABLE TIMOTHY DAVIS FOX,  
JUDGE

REMANDED.

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**RHONDA K. WOOD, Associate Justice**

On September 9, 2016, the circuit court denied Appellant Jeremy S. Kennedy’s pro se petition to proceed in forma pauperis in a civil action. Kennedy filed a notice of appeal on September 30, 2016, but we remanded the matter because the circuit court’s order failed to state whether there was a lack of a colorable cause of action in accordance with Arkansas Rule of Civil Procedure 72 (2016). We again remand.

On April 17, 2017, following remand, the circuit court concluded that it was “not satisfied from the facts alleged” that Kennedy had sufficiently pleaded a colorable cause of action. Kennedy lodged a supplemental record on May 1, 2017, and a new briefing schedule was set for the appeal. Kennedy filed his appellant brief on October 19, 2017. The appellee did not file a brief in response.

We must remand because we cannot determine whether the petition the circuit court denied is contained in the record and because the record does not contain the original civil action. The original record contains a petition to proceed in forma pauperis file-marked November 10, 2016, which is after the court entered its first order denying the petition to proceed in forma pauperis and after Kennedy's first notice of appeal.<sup>1</sup> Neither the original record nor the supplemental record contain any other petitions to proceed in forma pauperis. Therefore, it is unclear whether the record contains the petition the circuit court denied. Furthermore, neither record contains the original civil action to which the petition to proceed in forma pauperis pertains, which is necessary for the court's review of the denial of appellant's petition. Because of these deficiencies, we cannot determine whether the circuit court relied on sufficient facts when it entered either of its orders.

Therefore, we again remand the matter for the circuit court to clarify: (1) whether the petition to proceed in forma pauperis dated November 10, 2016 is the petition the circuit court denied in either or both of its orders; (2) whether there are any further pleadings relevant to the appeal, and if so, to supplement the record to include those pleadings; and (3) whether there is a separate civil pleading, which was not included in the records, that the circuit court relied on in determining Kennedy failed to allege a colorable

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<sup>1</sup>We note that on November 10, 2016, the circuit clerk certified the original record, but it is not for us to speculate why the dates are the same.

cause of action, and if so, to include it in the supplemental record, and if not, to state that no separate pleading was filed.

The remand is returnable forty-five days from the date of this opinion.

Remanded.

*Jeremy S. Kennedy*, pro se appellant.

One brief only.