

**SUPREME COURT OF ARKANSAS**

No. CR 09-1351

FRANCES RENEE PERRY  
PETITIONER

V.

STATE OF ARKANSAS  
RESPONDENT

**Opinion Delivered** February 18, 2010

PRO SE MOTION FOR BELATED  
APPEAL OF ORDER AND MOTION  
FOR APPOINTMENT OF COUNSEL  
JEFFERSON COUNTY CIRCUIT  
COURT [CR 2003-886]

HON. JODI RAINES DENNIS, JUDGE

MOTION FOR BELATED APPEAL  
DENIED; MOTION FOR  
APPOINTMENT OF COUNSEL  
MOOT.

**PER CURIAM**

In 2006, petitioner Frances Renee Perry entered a plea of guilty to theft of property and four counts of second-degree forgery. She was sentenced to an aggregate term of seventy-two months' imprisonment.

In 2008, petitioner filed in the trial court a pro se petition for writ of error coram nobis. The petition was denied in an order entered April 9, 2009. Petitioner filed a notice of appeal on August 12, 2009, which was 125 days after the order was entered. When the record on appeal was tendered to this court, our clerk correctly declined to lodge it inasmuch as the notice of appeal was not filed within thirty days of the date the order was entered as required by Arkansas Rule of Appellate Procedure—Criminal 2(a) (2009). Petitioner now



Cite as 2010 Ark. 84

seeks leave to lodge the record belatedly. She also seeks appointment of counsel.

A petitioner has the right to appeal a ruling on a petition for postconviction relief. *Burgess v. State*, 2010 Ark. 34 (per curiam). With that right goes the responsibility of complying with our rules of procedure. Where the notice of appeal was not timely filed, the burden is on the petitioner to show good cause for the omission. See *Brewer v. State*, 2010 Ark. 59 (per curiam); Ark. R. App. P.–Crim. 2(e) (2009).

Petitioner contends that the coram nobis petition and other pleadings she filed with the circuit court had merit, but the merit of the pleadings is not at issue. The sole question is whether petitioner has established good cause for her failure to timely file a notice of appeal with respect to the April 9, 2009 order.

Petitioner states that she mailed a notice of appeal to the circuit judge “in a timely manner,” but even if the judge received the notice of appeal, this court has held that delivering of an item to be filed to a circuit judge is not the equivalent of filing the item with the clerk for purposes of determining whether it was timely filed. See *Benton v. State*, 325 Ark. 246, 925 S.W.2d 401 (1996) (per curiam); *Thompson v. State*, 280 Ark. 163, 655 S.W.2d 424 (1983) (per curiam).

Petitioner’s primary argument is that the circuit judge, the circuit clerk, the prosecutor, and other persons employed by the circuit court had a duty to perfect the appeal but failed to do so. It is not, however, the responsibility of the circuit clerk, the circuit court, or anyone other than the appellant to perfect an appeal. *Ester v. State*, 2009 Ark. 442, at 2 (per curiam);



Cite as 2010 Ark. 84

*Marshall v. State*, 2009 Ark. 420, at 2 (per curiam); *Branning v. State*, 363 Ark. 369, 214 S.W.3d 237 (2005) (per curiam).

All litigants, including those who proceed pro se, must bear responsibility for conforming to the rules of procedure or demonstrating a good cause for not doing so. *Daniels v. State*, 2009 Ark. 607 (per curiam); *Marshall*, 2009 Ark. 420; *Peterson v. State*, 289 Ark. 452, 711 S.W.2d 830 (1986) (per curiam); *Walker v. State*, 283 Ark. 339, 676 S.W.2d 460 (1984) (per curiam); see also *Tarry v. State*, 353 Ark. 158, 114 S.W.3d 161 (2003) (per curiam). Petitioner here has not established good cause for her failure to file a timely notice of appeal. Accordingly, the motion for belated appeal is denied. As the motion is denied, the motion for appointment of counsel is moot.

Motion for belated appeal denied; motion for appointment of counsel moot.

*Frances Renee Perry*, pro se petitioner.

No response.