

SUPREME COURT OF ARKANSAS

No. CR 09-140

BRANDON CARTER
Petitioner

v.

STATE OF ARKANSAS
Respondent

Opinion Delivered October 8, 2009

PRO SE MOTION FOR BELATED
APPEAL OF JUDGMENT OF
CONVICTION AND MOTIONS FOR
APPOINTMENT OF COUNSEL, FOR
TRANSCRIPT, FOR COPY OF
RECORD ON REMAND, AND TO
SUPPLEMENT MOTION FOR
BELATED APPEAL [CIRCUIT COURT
OF COLUMBIA COUNTY, CR 2006-64,
HON. LARRY W. CHANDLER, JUDGE]

MOTIONS FOR BELATED APPEAL
AND APPOINTMENT OF COUNSEL
GRANTED; MOTIONS FOR
TRANSCRIPT, FOR RECORD ON
REMAND, AND TO SUPPLEMENT
MOTION FOR BELATED APPEAL
MOOT.

PER CURIAM

Petitioner Brandon Carter, an inmate in the Arkansas Department of Correction, filed a motion in this court in which he sought to appeal his judgment of conviction, along with motions for appointment of counsel, seeking to bring up the transcript, and to proceed as an indigent. In his motion for belated appeal, petitioner contended that he had advised his attorney, Mr. Don Gillaspie, that he desired to appeal the conviction, but did not indicate when he had done so. We remanded for findings of fact on the issue of whether petitioner informed Mr. Gillaspie within the time period allowed to file a notice of appeal. *Carter v. State*, 2009 Ark. 162 (unpublished per curiam). The writ has been returned.

Following the return of the writ, petitioner filed pro se motions in which he requests this court to provide him with a copy of the record on remand, and in which he seeks to supplement his motion for belated appeal.

The trial court provided an order finding that petitioner did instruct Mr. Gillaspie that he wished to appeal, and that Mr. Gillaspie then knowingly and intentionally failed to file the notice of appeal. As we explained in our previous opinion, if petitioner advised Mr. Gillaspie within the required time of his desire to appeal and Mr. Gillaspie failed to act to perfect the appeal, petitioner has stated good cause to grant his motion for belated appeal. We will permit the appeal to proceed.

Mr. Gillaspie has surrendered his license. *In re Gillaspie*, 373 Ark. App'x ____ (May 1, 2008). As we indicated in our previous opinion, we will allow petitioner to now proceed in forma pauperis. We appoint Greta Falkner to represent petitioner in this appeal.

We direct our clerk to lodge the partial record. Counsel is directed to file a petition for writ of certiorari within thirty days to call up the entire record, or that portion of it necessary for the appeal to proceed in this court. Petitioner's motion for transcript is therefore moot. As relief has been granted and counsel has been appointed to represent petitioner, petitioner's motion for a copy of the record on remand and later motion to supplement are moot as well.

Motions for belated appeal and appointment of counsel granted; motions for transcript, for record on remand, and to supplement motion for belated appeal moot.