

ARKANSAS SUPREME COURT

No. 09-14

ALFONZO HENDRIX
Petitioner

v.

CARL VAUGHN
Respondent

Opinion Delivered April 9, 2009

PRO SE MOTION FOR RULE ON
CLERK [CIRCUIT COURT OF
NEVADA COUNTY, CV 2006-67, HON.
RUSSELL ROGERS, JUDGE]

MOTION DENIED.

PER CURIAM

Petitioner Alfonzo Hendrix filed a pro se civil complaint against the respondent Carl Vaughn that contained allegations of wrongful imprisonment and false accusations filed in a police report. The circuit court dismissed the case, and petitioner filed a timely notice of appeal on September 2, 2008. Our clerk declined to file the record when it was submitted on December 3, 2008. Petitioner has filed a pro se motion for rule on clerk, requesting permission to proceed with an appeal of the circuit court's order.

The time limit in Arkansas Rule of Appellate Procedure--Civil 5(a) requires that the record be tendered to this court within ninety days of the date of the notice of appeal, unless the circuit court granted an extension of time. The partial record before us does not reflect an extension of time to file the record, and petitioner concedes that the record was tendered outside of the ninety day limit in Rule 5(a). In his motion, petitioner contends that the record was held by the circuit clerk, and he blames the court reporter, the court, and the clerk for failing to tender the record within ninety days of the date of the notice of appeal.

Petitioner's complaint was a civil cause of action and any appeal is thus governed by our civil rules of procedure. In criminal cases, under Arkansas Rule of Appellate Procedure--Criminal 2(e), a petitioner may seek to appeal an order, in some circumstances, despite having failed to comply with the time requirements imposed by the rules governing criminal appeals. No comparable rule exists to perfect an appeal in civil cases. *See Childers v. Ark. Dep't of Human Servs.*, 360 Ark. 517, 202 S.W.3d 529 (2005) (per curiam). While this court has recognized some circumstances where a right to appeal is implicated, as in *Childers*, or under the most extraordinary circumstances in other cases, where an exception may be appropriate, those circumstances do not exist here. *See Waste Mgmt. & Transp. Ins. Co. v. Estridge*, 363 Ark. 42, 210 S.W.3d 869 (2005).

Nor does the fact that petitioner is not represented by counsel provide an excuse for his failure to comply with procedure. 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. *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); *Thompson v. State*, 280 Ark. 163, 655 S.W.2d 424 (1983) (per curiam); *see also Tarry v. State*, 353 Ark. 158, 114 S.W.3d 161 (2003) (per curiam). Because petitioner has shown no basis to permit an appeal to proceed, we deny his motion for rule on clerk.

Motion denied.

Gunter, J., not participating.