

Cite as 2009 Ark. 236 (unpublished)

ARKANSAS SUPREME COURT

No. CR 08-1400

TOMMY HALL
Petitioner

v.

STATE OF ARKANSAS
Respondent

Opinion Delivered **April 23, 2009**

PRO SE MOTIONS FOR CERTIFIED
COPIES [CIRCUIT COURT OF
MILLER COUNTY, CR 2004-164]

MOTIONS DENIED.

PER CURIAM

Petitioner Tommy Hall filed in this court a pro se motion for belated appeal of an order in circuit court that denied his motion to withdraw a guilty plea entered in 2006. We denied the motion. *Hall v. State*, CR 08-1400 (Ark. Mar. 5, 2009) (per curiam). Petitioner has now filed the motions before us in which he asks that we provide him with certified copies of the documents that made up the case file and record in that proceeding so that he may pursue postconviction relief under Arkansas Rule of Criminal Procedure 37.2(c). He further asserts that he is indigent and cannot afford the cost of the copies. Petitioner indicates that he would like to initiate a postconviction proceeding and that he wishes to use these documents in order to do so. He alleges that the circuit clerk has refused to provide him with copies of the documents.

To the extent that petitioner appears to request we return certified documents in the record to him, there is no provision in the prevailing rules of procedure for this court to return the record to a petitioner after the court has acted. The record lodged is not the



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property of an appellant or petitioner, and a petitioner has no absolute right to a personal copy of it, or to utilize it for another filing. *See Bradshaw v. State*, 372 Ark. 305, 275 S.W.3d 173 (2008) (per curiam). Any allegations concerning a breach of duty by the circuit clerk should be addressed to the circuit court. Petitioner provides no good cause to return the record to him.

To the extent that petitioner may be simply requesting copies of the documents at public expense, he fails to identify a compelling need for the documents. Indigency alone does not entitle a petitioner to free photocopying. *Nooner v. State*, 352 Ark. 481, 101 S.W.3d 834 (2003) (per curiam). A petitioner is not entitled to a free copy of material on file with this court unless he or she demonstrates some compelling need for specific documentary evidence to support an allegation contained in a petition for postconviction relief. *Id.*

Petitioner has not identified a claim that the requested documents would be required to support or demonstrated that a timely postconviction proceeding has been or may be filed in circuit court. The time for filing for postconviction relief under Arkansas Rule of Criminal Procedure 37.1 as set out in Rule 37.2 on petitioner's judgment has long passed. Rule 37.2(c) requires such a petition be filed within ninety days of the entry of the judgment where the conviction was obtained on a guilty plea. Petitioner has not shown that there is a postconviction remedy available to him. Accordingly, we deny the motions.

We note that when an original action has been filed in this court, the material pertaining to it remains permanently on file with the clerk, unless it is being maintained under



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seal. Persons may review the material in the clerk's office and photocopy all or portions of it. An incarcerated person desiring a photocopy of material on file here may write this court, remit the photocopying fee, and request that the copy be mailed to the prison. All persons, including prisoners, must bear the cost of photocopying. *Bradshaw*, 372 Ark. at 305, 275 S.W.3d at 174.

Motions denied.