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SUPREME COURT OF ARKANSAS

No. CR-17-1051

RICARDO MCDANIEL
PETITIONER

V.
STATE OF ARKANSAS
RESPONDENT

Opinion Delivered: April 2, 2020

PRO SE MOTION REQUESTING
COPY OF RECORD
[ST. FRANCIS COUNTY CIRCUIT
COURT, NO. 62CR-14-572]

RESPONSE ORDERED.

RHONDA K. WOOD, Associate Justice

In 2017, Ricardo McDaniel was convicted of capital murder, two counts of battery in the first degree, and aggravated residential burglary. McDaniel wishes to exercise his right to pursue Rule 37 relief and has requested his trial record to form his argument. He alleges that Lee Short, his trial counsel, has not provided a copy of the record. Because Short did not file a response to McDaniel’s motion as required by Rule 19(b), we order a response.

McDaniel filed a pro se motion requesting a copy of his record pursuant to Rule 19(b) of the Arkansas Rules of Appellate Procedure—Criminal (2019). McDaniel’s motion, filed on December 30, 2019, included a certificate of service to his trial counsel, Lee Short.

McDaniel alleges that he requested his record from Short and that Short sent him a letter stating that he mailed a disk to the Varner records office. McDaniel further contends that the Varner records office informed him there was not a disk, or record, received by that office. Short has not filed a response to McDaniel’s motion which, pursuant to Rule 19(b), was due twenty days after the date of service.

This court has made clear that under Rule 19(b), an attorney who is served with a copy of a motion is required to respond; therefore, Short must respond even if he believes the motion has no merit. *Green v. State*, 2017 Ark. 243, at 1–2 (citing *Geatches v. State*, 2016 Ark. 452, 505 S.W.3d 691). Accordingly, Short is directed to file a response as required by Rule 19 stating (1) whether he has the requested copy in his possession; (2) if so, whether the copy is on paper or in some other format; (3) if he has a copy, whether that copy has been provided to McDaniel and attach and evidence of mailing if retained. *See Ark. R. App. P.–Crim. 19(b)*.

Response ordered.