

Cite as 2009 Ark. 418

ARKANSAS SUPREME COURT

No. CR 02-811

Opinion Delivered September 17, 2009

RICKEY D. NEWMAN
PETITIONER

V.

STATE OF ARKANSAS
RESPONDENT

PRO SE MOTIONS TO DENY RELIEF,
TO OBTAIN INFORMATION OR
STATUS OF CIRCUIT COURT CASE,
AND TO PROCEED WITHOUT
COUNSEL, AND PRO SE MOTION AND
SUPPLEMENTAL MOTION IN
SUPPORT OF ATTORNEY GENERAL'S
POSITION PERTAINING TO PETITION
TO REINVEST JURISDICTION IN
TRIAL COURT TO CONSIDER
PETITION FOR WRIT OF ERROR
CORAM NOBIS

MOTIONS DENIED IN PART AND
MOOT IN PART.

PER CURIAM

Now before us are five pro se motions filed by petitioner Rickey D. Newman. Newman was convicted by a jury of capital murder and sentenced to death. Pursuant to Arkansas Rule of Appellate Procedure—Criminal 10, we conducted an automatic review of his conviction and found no error. *Newman v. State*, 353 Ark. 258, 106 S.W.3d 438 (2003).

The instant motions concern the petition filed on Newman's behalf seeking this court's permission to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis. The motions also address a petition for postconviction relief pursuant to Arkansas Rule of Criminal Procedure 37. A petition for postconviction relief is filed pursuant to Arkansas Rule of Criminal Procedure 37.1, and Criminal Procedure Rule 37.5 sets forth

procedures for persons under the sentence of death. However, no Rule 37 issue is currently pending before this court, and those portions of the motions that address such a petition are therefore moot.

As to other matters raised in the motions, Newman filed a pro se motion on August 20, 2009, requesting that we deny the petition to reinvest jurisdiction in the trial court and a petition under Rule 37.5. He also filed a pro se motion on August 25, 2009, and a supplemental pro se motion on August 27, 2009. In these motions, Newman adopts the position taken by the Arkansas Attorney General's office on behalf of the respondent State of Arkansas to the petition to reinvest jurisdiction in the trial court, that is, that the petition should be denied. Newman also references a Rule 37 petition in these motions.

All three motions are based upon Newman's claim that he did not want the federal public defender to file the error coram nobis petition on his behalf. We previously ordered the matter to be briefed by the parties. The briefs have now been filed and are pending before this court. To the degree that Newman's motions suggest that he wishes to forego further legal proceedings in this case, those requests are denied.

On August 31, 2009, Newman additionally filed a pro se motion for this court's permission to proceed without counsel in various matters. In the caption, he asks to proceed without counsel in "all" of his cases, but in the body of the motion, he specifically identifies an action under Arkansas Rule of Criminal Procedure 37 and actions in state court. As previously noted, no matter is currently pending in this court that concerns postconviction relief pursuant to Criminal Procedure Rule 37, and that request is moot.

To the extent that Newman is asking to proceed pro se in the pending petition to reinvest jurisdiction in the trial court, that request is denied. As Newman is represented by counsel, he is not entitled to pursue his own motions for relief and also rely on counsel to

represent him. *Hamilton v. State*, 348 Ark. 532, 74 S.W.3d 615 (2002). The only exception to this rule is where an appellant can demonstrate that counsel's arguments are deficient. *Gidron v. State*, 312 Ark. 517, 850 S.W.2d 331 (1993) (per curiam). Newman has failed to make such a showing here.

Also before us is Newman's August 20, 2009, pro se motion asking this court to direct the federal public defender's office to provide Newman with unspecified information and the status of matters pending in the Crawford County Circuit Court. He claims in the motion that he has been unable to elicit the requested information from his attorney.

Having undertaken to represent Newman, this court is confident that attorneys with the federal public defender's office will continue to comply¹ with Arkansas Rule of Professional Conduct 1.4(a)(3), which states that a lawyer shall "keep the client reasonably informed about the status of the matter," and Arkansas Rule of Professional Conduct 1.4(a)(4), which states that a lawyer shall "promptly comply with reasonable requests for information." Newman's motion on this issue is denied. To the extent that his motion concerns a petition under Criminal Procedure Rule 37, the motion is moot.

Motions denied in part and moot in part.

Jennifer Horan, Federal Public Defender, by: *Julie Brain*, Deputy Federal Public Defender, for petitioner.

Dustin McDaniel, Att'y Gen., by: *Darnisa Evans Johnson*, Ass't Att'y Gen., for respondent.

¹In Newman's motion filed on August 25, 2009, he states therein that he spoke with one of his federal public defenders on August 19, 2009, indicating that he has had the opportunity to inquire about the status of any circuit court proceedings.