

Cite as 2009 Ark. 419

**ARKANSAS SUPREME COURT**

No. CR-08-994

**Opinion Delivered**      September 17, 2009

RUFFUS GRAY  
A/K/A RUFUS GRAY  
PETITIONER

V.

STATE OF ARKANSAS  
RESPONDENT

PRO SE MOTION FOR  
RECONSIDERATION OF PRO SE  
MOTION FOR BELATED APPEAL AND  
MOTION FOR APPOINTMENT OF  
COUNSEL [CLARK COUNTY  
CIRCUIT COURT, NO CR 2004-217,  
HON. JOHN A. THOMAS, JUDGE]

MOTION FOR RECONSIDERATION  
DENIED; MOTION FOR  
APPOINTMENT OF COUNSEL MOOT.

**PER CURIAM**

On February 1, 2008, petitioner Ruffus Gray, who is also known as Rufus Gray, was found guilty by a jury of attempted rape and sentenced to 560 months' imprisonment. A fine of \$7,500 was also imposed. Judgment was entered of record on February 27, 2008. No appeal was taken, and petitioner sought leave to proceed with a belated appeal pursuant to Rule 2(e) of the Rules of Appellate Procedure—Criminal. In the motion he contended that his retained attorney knew of his desire to appeal from the judgment and wrongfully abandoned the appeal. The motion was denied on October 30, 2008, on the ground that the attorney had been duly relieved as counsel before the judgment was entered and thus was not responsible for perfecting an appeal. *Gray v. State*, CR 08-994 (Ark. Oct. 30, 2008) (unpublished per curiam).

On December 18, 2008, petitioner filed a motion for reconsideration, which was denied on February 26, 2009. *Gray v. State*, 2009 Ark. 97 (unpublished per curiam). On June 18, 2009, seventeen weeks after the motion for reconsideration was denied, petitioner filed the second such motion that is now before us. In the motion, he argues in conclusory fashion that he should be allowed to proceed with a belated appeal of the judgment because he did not have access to an adequate law library; he was suffering from a mental illness; his retained attorney did not advise him on how to file a pro se notice of appeal even though he had been paid to assist him; he was denied effective assistance of counsel at trial and before counsel was relieved; there were meritorious issues to be raised on an appeal; and he had a due-process right to appeal.

In the original opinion in this matter, we concluded that petitioner had failed to establish that there was good cause for his failure to perfect the appeal after his retained attorney had been relieved. We further noted that once retained counsel was relieved, the burden was on petitioner, if he was incapable of proceeding pro se on appeal and desired representation by counsel, to retain other counsel. If he had become indigent since retaining counsel, it was his responsibility to file in the trial court a motion for appointment of counsel with his affidavit of indigency appended. We further noted that a belated appeal will not be allowed absent a showing by the petitioner of good cause for the failure to comply with proper procedure. See *Garner v. State*, 293 Ark. 309, 737 S.W.2d 637 (1987) (per curiam). A convicted defendant may waive his right to appeal by failing to take definitive action to pursue the appeal. See *Langston v. State*, 341 Ark. 739, 19 S.W.3d 619 (2000) (per curiam). In the instant case, petitioner has not established that he acted to preserve his right to appeal.

Accordingly, this second motion for reconsideration is denied. As the matter has now been addressed in three opinions, our clerk is directed to accept no further such motions from petitioner.

We take this opportunity to address the fact that this court has allowed motions for reconsideration to be filed at any time after a motion has been denied. This practice has resulted in the filing of motions for reconsideration long after the original decision on a particular motion was rendered. Such a delay in seeking reconsideration of a motion is unreasonable and unduly burdensome. Henceforth, this court will not accept for filing any motion for reconsideration submitted more than eighteen days after a motion was acted upon by this court. Eighteen days has proved to provide ample opportunity for a petition for rehearing to be filed after a judgment of conviction is affirmed on appeal pursuant to Arkansas Supreme Court Rule 2-3(a). The same limitation on filing a motion for reconsideration will likewise allow a reasonable opportunity for the petitioner to be heard.

Motion for reconsideration denied.

Appellant, pro se.

No response.