

ARKANSAS SUPREME COURT

No. 07-1331

DONALD RAY PETERSON
Petitioner

v.

LARRY NORRIS, DIRECTOR,
ARKANSAS DEPARTMENT OF
CORRECTION
Respondent

Opinion Delivered April 10, 2008

PRO SE MOTION FOR
RECONSIDERATION OF DENIAL
OF MOTION FOR BELATED
APPEAL [CIRCUIT COURT OF
JEFFERSON COUNTY, CV 2006-
1065, HON. ROBERT H. WYATT,
JR., JUDGE]

MOTION DENIED.

PER CURIAM

Petitioner Donald Ray Peterson, a prisoner incarcerated in the Arkansas Department of Correction, filed a petition for writ of habeas corpus in Jefferson County Circuit Court that the circuit court denied. Petitioner brought a pro se motion for rule on clerk or belated appeal of that order in this court and, treating the motion as one for belated appeal, we denied the motion. *Peterson v. Norris*, 07-1331 (Ark. Feb. 21, 2008) (per curiam). Petitioner has now filed a pleading in which he contends that our decision was based upon two errors.¹

Petitioner alleges error in our understanding of the purpose of the petition for writ of certiorari that he had tendered to this court and error in our understanding of the reasons that he failed to perfect his appeal. To the extent that either fact contributed to a basis for our decision, it

¹We note that petitioner has attached two additional motions, along with a number of exhibits, to his pleading. As those motions do not appear to have been filed, we do not consider them. Because this motion to reconsider is without merit, the additional motions would have been moot, in any case.

was not misunderstood. Petitioner also contends that a number of the previous decisions cited in our opinion were either wrongly decided or misinterpreted. Petitioner's arguments are not persuasive and we decline the opportunity to overturn those decisions or reinterpret them.

In our opinion, we referenced petitioner's tendered petitions for writ of certiorari, but explained that petitioner's allegations of mistake by our staff would have no bearing upon the timeliness of his appeal. The tendered petitions were not filed because petitioner did not comply with Ark. Sup. Ct. R. 3-5(a) in that he failed to provide "a dated and certified copy of the order or judgment appealed from" in order to confer jurisdiction on this court. Petitioner contends that he did not intend to seek review of the denial of his habeas petition through the petition for writ of certiorari, but sought to bring up the record because he had placed a notice of appeal in the mail. Regardless of petitioner's intention, our staff did not err in rejecting the tendered petitions for writ of certiorari. Moreover, even if those petitions had been incorrectly rejected for filing, they still would have had no relevance to our decision.

Petitioner next asserts that his intent in the motion for belated appeal and in each document he has attempted to file has been to substantiate his claim that he did mail a notice of appeal. We did understand that intent, and did explain that we do not apply the mail-box rule. *See, e.g., Hamel v. State*, 338 Ark. 769, 1 S.W.3d 434 (1999). Petitioner argues that, if we do not apply the mail-box rule, we must otherwise accommodate him because he is incarcerated, that we should overrule any previous decisions holding otherwise. Yet, numerous pro se litigants who are also incarcerated do comply with our rules of procedure, file timely notices of appeal and bring appeals of adverse rulings to this court on a daily basis. Petitioner's argument is not persuasive.

Petitioner fails to show that there was any error in the law or facts upon which our decision

was based. As he has presented no valid reason that we should reconsider our previous decision, we deny the motion for reconsideration.

Motion denied.