

SUPREME COURT OF ARKANSAS

No. 12-113

AL M. WILLIAMS

PETITIONER

v.

HELENA REGIONAL MEDICAL
CENTER AND UNSPECIFIED PARTIES
RESPONDENTS

Opinion Delivered March 15, 2012

PRO SE MOTION TO PROCEED IN
FORMA PAUPERIS WITH RESPECT
TO TENDERED MOTION FOR RULE
ON CLERK TO PROCEED WITH
MOTION FOR BELATED APPEAL
WITHOUT A CERTIFIED RECORD
[PHILLIPS COUNTY CIRCUIT COURT,
NO RECORD OF PROCEEDINGS]MOTION DISMISSED.**PER CURIAM**

On January 31, 2012, petitioner Al M. Williams tendered to this court a pro se motion for rule on clerk, seeking to file a motion for belated appeal of a civil order without a certified record. On February 9, 2012, petitioner filed the motion that is now before us, asking that he be permitted to proceed as an indigent in the matter and, thus, avoid paying a fee to file the motion for rule on clerk. He submitted an affidavit of indigency with the motion to proceed in forma pauperis.

The motion is dismissed, inasmuch as it is abundantly clear that this court will not grant petitioner leave to proceed with the motion for rule on clerk to file a motion for belated appeal in this matter. Petitioner has provided no record. As a result, even basic information such as the parties, the exact nature of the original complaint, and the order or orders entered by the lower court to which the tendered motion for belated appeal pertains cannot be discerned with clarity. It is petitioner's burden to produce a certified record of the lower court proceedings to

establish that this court has jurisdiction to act and from which the merits of the claims being raised can be weighed. *See Threadford v. Hobbs*, 2011 Ark. 468 (per curiam). Here, petitioner has provided a sheaf of loose papers, some of which bear file-marks and some of which do not. While he contends that there are good reasons for his failure to produce a record adequate to file the motion for belated appeal, petitioner has not shown that he should be permitted to act outside our procedural rules. Even in criminal matters, the pro se petitioner receives no special consideration concerning the responsibility to conform to procedural rules. *Smith v. State*, 2011 Ark. 369 (per curiam). Petitioner has demonstrated no basis on which this court could permit a belated appeal even if the motion for rule on clerk were granted. In these circumstances, it would be pointless to grant a motion to proceed in forma pauperis.

Moreover, the proceeding was entirely civil in nature. A rule on clerk is rarely granted in civil matters. In criminal cases, under Arkansas Rule of Appellate Procedure—Criminal 2(e) (2011), a petitioner may seek to appeal an order, in some circumstances, despite having failed to comply with the time requirements imposed by the rules governing criminal appeals. No comparable rule exists to perfect an appeal in civil cases. *Porter v. State*, 2010 Ark. 219 (per curiam); *see* Ark. R. App. P.—Civ. 4 (2011); *Douglas v. State*, 2009 Ark. 427 (per curiam) (citing *Butcher v. State*, 345 Ark. 222, 45 S.W.3d 378 (2001) (per curiam)). This court has recognized some circumstances where an exception may be appropriate, however, such as cases involving the termination of parental rights, where a right to appeal is implicated. *See Childers v. Ark. Dep't of Human Servs.*, 360 Ark. 517, 202 S.W.3d 529 (2005) (per curiam) (refusing to dismiss an appeal in a termination-of-parental-rights case where the parent had failed to timely lodge the record);

Linker-Flores v. Ark. Dep't of Human Servs., 359 Ark. 131, 194 S.W.3d 739 (2004) (holding that indigent parents have a right to an appeal from a judgment terminating parental rights). This court has also acknowledged that extraordinary circumstances may exist in other situations not involving the termination of parental rights. *See, e.g., Thomas v. Ark. State Plant Bd.*, 254 Ark. 997, 497 S.W.2d 9 (1973) (court found extraordinary circumstances and unavoidable casualty to exist where a tornado destroyed counsel's home and law office, thus warranting the granting of a motion for rule on clerk in a civil case). However, no such circumstances have been established to exist here sufficient to warrant granting the motion to proceed in forma pauperis and permitting the motion for rule on clerk to be filed for the purposes of considering the motion for belated appeal.

Motion dismissed.