

Cite as 2009 Ark. 427

**ARKANSAS SUPREME COURT**

No. 09-437

MICHAEL L. DOUGLAS, \$553.00 IN  
U.S. CURRENCY, 1992 LINCOLN  
TOWN CAR VIN  
1LNLM81WXNY673286 AND  
MOTOROLA CELL PHONE  
Petitioners

v.

STATE OF ARKANSAS  
Respondent

**Opinion Delivered** September 17, 2009

PRO SE MOTION FOR BELATED  
APPEAL OR MOTION FOR RULE ON  
CLERK [CIRCUIT COURT OF DREW  
COUNTY, CV 2006-152, HON. BYNUM  
GIBSON, JUDGE]

MOTION TREATED AS MOTION FOR  
BELATED APPEAL AND DENIED.

**PER CURIAM**

Now before us is a pro se motion for belated appeal or motion for rule on clerk filed by petitioner Michael L. Douglas in this court on April 27, 2009. Therein, petitioner seeks permission to proceed with an appeal from an agreed order. The order was entered on January 31, 2007, in a civil forfeiture proceeding captioned *State of Arkansas v. Michael L. Douglas, \$553.00 in U.S. Currency, 1992 Lincoln Town Car VIN 1LNLM81WXNY673286 and a Motorola Cell Phone*, Drew County Case No. CV 2006-152. Attorney Kenneth Johnson signed the document on behalf of petitioner which recited that the parties agreed to a certain disposition of the items in question.

In the motion for belated appeal or rule on clerk, petitioner maintains that Johnson was not representing petitioner at that time as Johnson had withdrawn as counsel for petitioner. He further challenges proper service of process by the plaintiff State of Arkansas in the forfeiture cause of

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action pursuant to Arkansas Rule of Civil Procedure 4.

The motion is treated as a motion for belated appeal as no notice of appeal was filed in the trial court. *See Holland v. State*, 358 Ark. 366, 190 S.W.3d 904 (2004) (per curiam) (citing *Johnson v. State*, 342 Ark. 709, 30 S.W.3d 715 (2000)). For the reasons stated herein, the motion is denied.

Forfeiture matters arising from criminal cases are considered *in rem* civil actions. *State v. One 1993 Toyota Camry*, 333 Ark. 503, 969 S.W.2d 663 (1998). Our rules of civil procedure do not provide for a belated appeal in civil cases. *See Ark. R. App. P.–Civ. 4; Butcher v. State*, 345 Ark. 222, 45 S.W.3d 378 (2001) (per curiam). Thus, petitioner could not seek a belated appeal from an order or judgment entered in a civil forfeiture case.

Petitioner also contends that Johnson was not representing petitioner in the forfeiture matter, or at least when the agreed order was signed by Johnson, and that service of process in the case was defective under Civil Procedure Rule 4. Without commenting on the validity of petitioner's claims, his remedy lies in the circuit court where the order was entered and not in an appellate court. *See e.g. Shotzman v. Berumen*, 363 Ark. 215, 213 S.W.3d 13 (2005) (citing *Farm Bureau Mut. Ins. Co. v. Campbell*, 315 Ark. 136, 865 S.W.2d 643 (1993)).

Motion treated as motion for belated appeal and denied.