

Cite as 2009 Ark. 429

ARKANSAS SUPREME COURT

No. 09-655

HOWARD WAYNE JONES
Petitioner

v.

LARRY NORRIS, DIRECTOR,
ARKANSAS DEPARTMENT OF
CORRECTION
Respondent

Opinion Delivered September 17, 2009

PRO SE MOTION FOR BELATED
APPEAL [CIRCUIT COURT OF LEE
COUNTY, CV 2008-32, HON. HARVEY
YATES, JUDGE]

MOTION TREATED AS MOTION FOR
RULE ON CLERK AND DENIED.

PER CURIAM

On March 3, 2008, petitioner Howard Wayne Jones, a prisoner in the custody of the Arkansas Department of Correction, filed a pro se petition for declaratory judgment and writ of mandamus in the Circuit Court of Lee County. On December 17, 2008, the petition was dismissed. Petitioner timely filed a notice of appeal, but he did not tender the record to this court within ninety days of the date of the notice of appeal as required by Arkansas Rule of Appellate Procedure—Civil 5(a). Now before us is petitioner’s motion seeking leave to lodge the record belatedly and proceed with an appeal of the December 17, 2008, order. As a notice of appeal was timely filed, we treat the motion as a motion for rule on clerk to lodge the record. *See Ray v. State*, 348 Ark. 304, 73 S.W.3d 594 (2002) (per curiam).

Petitioner argues that the circuit clerk was at fault for the late tender of the record. It is not, however, the duty of the circuit clerk, or the responsibility of anyone other than the petitioner, to

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perfect an appeal. *See Sullivan v. State*, 301 Ark. 352, 784 S.W.2d 155 (1990) (per curiam); *Bragg v. State*, 297 Ark. 348, 760 S.W.2d 878 (1988) (per curiam). All litigants, including those who proceed pro se, must bear responsibility for conforming to the rules of procedure or demonstrating good cause for not doing so. *Peterson v. State*, 289 Ark. 452, 711 S.W.2d 830 (1986) (per curiam); *Walker v. State*, 283 Ark. 339, 676 S.W.2d 460 (1984) (per curiam); *Thompson v. State*, 280 Ark. 163, 655 S.W.2d 424 (1983) (per curiam). *See also Tarry v. State*, 353 Ark. 158, 114 S.W.3d 161 (2003) (per curiam).

The purpose of the rule setting time limitations on lodging a record is to eliminate unnecessary delay in the docketing of appeals. We have made it abundantly clear that we expect compliance with the rule so that appeals will proceed as expeditiously as possible. *Jacobs v. State*, 321 Ark. 561, 906 S.W.2d 670 (1995) (per curiam) (citing *Alexander v. Beaumont*, 275 Ark. 357, 629 S.W.2d 300 (1982) (per curiam)). Petitioner has stated no good cause for the failure to comply with our rules and timely lodge the record.

It is further noted that petitioner's complaint was a civil cause of action and any appeal is thus governed by our civil rules of procedure. Generally, there is no provision in the prevailing rules of procedure to lodge a record in a civil matter that is not timely tendered. *See Childers v. Ark. Dep't of Human Servs.*, 360 Ark. 517, 202 S.W.3d 529 (2005) (per curiam); *see also Sisler v. Bramlett*, 2009 Ark. 404, ___ S.W.3d ___. Petitioner has not shown that there are circumstances in this civil matter where a right to appeal is implicated. *See Waste Mgmt. & Transp. Ins. Co. v. Estridge*, 363 Ark. 42, 210 S.W.3d 869 (2005).

Motion treated as motion for rule on clerk and denied.