

ARKANSAS SUPREME COURT

No. 09-75

TOMMY HALL
Petitioner

v.

KIRK D. JOHNSON, CIRCUIT JUDGE
Respondent

Opinion Delivered March 12, 2009

PRO SE PETITION FOR WRIT OF
MANDAMUS; MOTION TO HAVE
COURTS INTERVENE [CIRCUIT
COURT OF MILLER COUNTY, CV
2005-310]

PETITION DISMISSED; MOTION
MOOT.

PER CURIAM

In 2005, the State of Arkansas filed an in rem complaint against five thousand, ninety-three dollars in U.S. currency and petitioner Tommy Hall. The record before us demonstrates that on December 9, 2008, December 11, 2008, and December 29, 2008, petitioner filed two pro se motions and an additional pro se pleading in the matter. On January 27, 2009, petitioner filed in this court a pro se petition for writ of mandamus against the Honorable Kirk D. Johnson, Circuit Judge. In his prayer for relief, petitioner asks that the seized property be returned and complains that his motions went unanswered. Petitioner contends that Judge Johnson has failed to act in a timely manner on the motions filed in Miller County Circuit Court, and it appears that he requests this court to compel the trial court to grant the motions or to act on its own initiative to grant the motions.

Judge Johnson filed a response to the mandamus petition attaching a copy of an order entered on February 5, 2009, that disposed of a motion in the case, although it was not one of the motions before us in this matter. The respondent's response also indicated that he was not properly served with the petition for writ of mandamus. After the response was filed, petitioner filed a motion in this

court in which he seeks to have this court compel the Miller County Circuit Clerk to provide him with certified copies of certain documents that he has requested.

The petition must be dismissed based upon the petitioner's failure to properly serve the respondent and the motion is therefore moot. Furthermore, to the extent that the petition would have this court order that the motion be granted, it is clear petitioner would not be entitled to relief. Mandamus is a clear remedy to compel an action by a public body to enforce an established right, where a violation of state law is clear and not discretionary. *Griffen v. Ark. Judicial Discipline & Disability Comm'n*, 368 Ark. 557, 247 S.W.3d 816 (2007). The writ will not lie to control or review matters of discretion. *Arkansas Democrat-Gazette v. Zimmerman*, 341 Ark. 771, 20 S.W.3d 301 (2000). The relief petitioner requests is not appropriate to the writ he seeks.

Petition dismissed; motion moot.