

# ARKANSAS SUPREME COURT

No. CR 06-191

NOT DESIGNATED FOR PUBLICATION

ARNOLD R. WELLS  
Petitioner

v.

STATE OF ARKANSAS  
Respondent

Opinion Delivered March 16, 2006

*PRO SE* MOTION FOR BELATED APPEAL OF  
ORDER [CIRCUIT COURT OF BRADLEY  
COUNTY, CR 2004-39-1, HON. SAMUEL B.  
POPE, JUDGE]

MOTION DENIED

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## PER CURIAM

Arnold R. Wells, an inmate incarcerated in Colorado, filed a *pro se* petition for writ of *habeas corpus* in the circuit court of Bradley County. The petition was denied by an order entered on November 2, 2005. Mr. Wells filed a notice of appeal on December 8, 2005, and has now filed a motion in this court requesting leave to file a belated appeal of the order denying *habeas corpus* relief.

A petitioner has the right to appeal a ruling on a petition for postconviction relief, which includes the dismissal of a petition for writ of *habeas corpus*. See *Scott v. State*, 281 Ark. 436, 664 S.W.2d 475 (1984) (*per curiam*). However, along with that right, goes the responsibility to file a timely notice of appeal within thirty days of the date the order was entered in accordance with Ark. R. App. P.–Civ. 4 (a). Here, petitioner’s notice of appeal was required to be filed by December 2, 2005, and the notice was filed six days late.

If a petitioner fails to file a timely notice of appeal, a belated appeal will not be allowed absent a showing by the petitioner of good cause for the failure to comply with proper procedure. *Garner v. State*, 293 Ark. 309, 737 S.W.2d 637 (1987) (*per curiam*). Petitioner asserts that he delivered the petition for mailing within the thirty-day period for filing, and that his failure to file within the period was justified either due to his lack of legal training combined with the trial court’s failure to make a

ruling on a motion for appointment of counsel that he had filed, or simply due to the failure to have counsel appointed, as a separate issue.

To the extent that petitioner argues we should apply the mail-box rule that is accepted in some courts, and which provides that a *pro se* inmate files his or her petition at the time the petition is placed in the hands of prison officials for mailing, we note that we have previously declined to adopt that rule. *See, e.g., Hamel v. State*, 338 Ark. 769, 1 S.W.3d 434 (1999). An item tendered to a court is considered tendered on the date it is received and file marked by the clerk, not on the date it may have been placed in the mail. Petitioner is solely responsible for filing his brief with the clerk.

As to petitioner's lack of legal training, we cannot find that as good cause for the delay. All litigants, including those who proceed *pro se*, must bear responsibility for conforming to the rules of procedure. *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 *pro se* appellant receives no special consideration on appeal. *Elliott v. State*, 342 Ark. 237, 27 S.W.3d 432 (2000). *See Gibson v. State*, 298 Ark. 43, 764 S.W.2d 617 (1989).

Nor is the fact that petitioner was not appointed counsel, either in combination with his lack of knowledge or as an individual issue, good cause for the delay. There is no constitutional right to an attorney in state postconviction proceedings. *Hardin v. State*, 350 Ark. 299, 86 S.W.3d 384 (2002) (*per curiam*). Right to counsel ends in this state after the direct appeal of the original judgment of conviction is completed, and the State is not obligated to provide counsel in postconviction proceedings. *Id.* at 301, 86 S.W.3d at 385. The mere fact that petitioner had not received a ruling from the court on his motion for appointment of counsel did not excuse his failure to comply with our procedure. The motion was moot, in any case, upon the court's denial of relief. Because petitioner has failed to show good cause for his failure to file his notice of appeal within the thirty-day period required by Rule 4(a), we deny the motion for belated appeal.

Motion denied.