

ARKANSAS SUPREME COURT

No. CR 06-512

NOT DESIGNATED FOR PUBLICATION

Opinion Delivered December 14, 2006

WILLIAM GREG SMITH
Appellant

PRO SE PETITION FOR REHEARING
[APPEAL FROM THE CIRCUIT
COURT OF GARLAND COUNTY, CR
2004-270, HON. JOHN HOMER
WRIGHT, JUDGE]

v.

STATE OF ARKANSAS
Appellee

PETITION DENIED.

PER CURIAM

A jury found appellant William Greg Smith guilty of engaging children in sexually explicit conduct for use in visual or print medium and sentenced him to 240 months' imprisonment in the Arkansas Department of Correction. This court affirmed the judgment. *Smith v. State*, 363 Ark. 456, ___ S.W.3d ___ (2005). Appellant timely filed in the trial court a *pro se* petition for postconviction relief under Ark. R. Crim. P. 37.1, which was denied. Appellant appealed that order denying postconviction relief and this court dismissed the appeal. *Smith v. State*, ___ Ark. ___, ___ S.W.3d ___ (Nov. 2, 2006) (*per curiam*). Appellant now brings this *pro se* petition for rehearing of our decision.

Rule 2-3(g) of the Rules of the Arkansas Supreme Court provides that a petition for rehearing should be used to call attention to specific errors of law or fact which the opinion is thought to contain and not to repeat arguments already considered and rejected by this court. The petition must cite to facts the appellant contends were overlooked and provide references to the abstract or

addendum as required by Ark. Sup. Ct. R. 2-3(h).

Appellant contends that we determined in error that the term “producing” in Ark. Code Ann. § 5-27-303(a) (2003) no longer includes “for pecuniary profit” as a required element of proof. He asserts that we overlooked the language “unless the context otherwise requires” in Ark. Code Ann. § 5-27-302(3) (1987), as amended by Act 1209 of the 1995 Acts of Arkansas, § 1, where the term “producing” as used in section 5-27-303(a) is defined. Appellant argues that the context of section 5-27-303(a) requires other construction because the case law as listed in the annotation to the statute must be included in our reading of the statute.

The annotations to the statute, however, are not a part of the statute and are not a part of the language adopted by the legislature. The language in section 5-27-302(3) that appellant contends was overlooked was not overlooked. That language is simply not relevant because the context of section 5-27-303(a) does not require another definition. Appellant has not brought our attention to any fact that was overlooked or any error of law. As there was no mistake of fact or law in our previous opinion, we deny appellant’s petition for rehearing.

Petition denied.