

ARKANSAS SUPREME COURT

No. CR 07-1134

RUSSELL BERGER
Petitioner

v.

HON. DAVID REYNOLDS, CIRCUIT
JUDGE
Respondent

Opinion Delivered January 17, 2008

PRO SE PETITION FOR WRIT OF
MANDAMUS [CIRCUIT COURT OF
FAULKNER COUNTY, CR 98-499]

PETITION MOOT.

PER CURIAM

On October 29, 2007, petitioner Russell Berger filed in this court a pro se petition for writ of mandamus. He contended in the petition that the Honorable David Reynolds, Circuit Judge, had failed to act in a timely manner on a pro se motion for credit for time spent in custody filed by petitioner on February 10, 2005. Judge Reynolds filed a response to the mandamus petition to which was appended a copy of an amended judgment of conviction entered in the case on November 2, 2007, crediting petitioner with 342 days in custody against the sentences imposed in 1999. As there was no reference in the response to the apparent delay of approximately thirty-three months in acting on the motion for credit for time served, we requested that respondent file an amended response explaining the reasons for the delay. The amended response is now before us.

Respondent notes that when preparing the original response he overlooked the fact that on March 1, 2005, he had entered an order disposing of the motion. Respondent has appended to the

amended response a copy of the order entered March 1, 2005. The order does not specifically mention a request for credit for time spent in custody, but respondent avers that the March 1, 2005, order disposed of the motion.¹ As the fact that an order was entered less than one month after the motion was filed indicates that there was in fact no undue delay in acting on the February 10, 2005, motion, the mandamus petition is moot.

Petition moot.

¹The order refers to the pleading filed by petitioner as a “Petition for Post-Conviction Remedy.