

ARKANSAS SUPREME COURT

No. CR 08-125

KENNETH RAY ODEN
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered May 22, 2008

PRO SE MOTION FOR
RECONSIDERATION OF DISMISSAL
OF APPEAL [CIRCUIT COURT OF
GREENE COUNTY, CR 2005-227,
HON. JOHN N. FOGLEMAN, JUDGE]

MOTION DENIED.

PER CURIAM

Now before us is appellant's pro se motion for reconsideration of the dismissal of this appeal handed down on April 10, 2008. *Oden v. State*, CR 08-125 (Ark. Apr. 10, 2008) (per curiam). The appeal was dismissed because the petition under Ark. R. Crim. P. 37.1 was unverified. Appellant asks this court to recognize that the trial court did not deny the petition based on lack of verification. On this basis, he seeks reconsideration of our decision. Alternatively, he asks that this matter be remanded to the trial court to allow him to file a verified Rule 37.1 petition.

Appellant has failed to meet his burden of demonstrating that there was some error of fact or law in the decision that would merit reconsideration of the dismissal of the appeal. The Rule 37.1 petition was not properly verified in accordance with Ark. R. Crim. P. 37.1(d). *Morris v. State*, 365 Ark. 217, 226 S.W.3d 790 (2006) (per curiam). As such, appellant could not be granted

postconviction relief. Further, any future Rule 37.1 petition filed in the trial court would be untimely under Ark. R. Crim. P. 37.2(c), and the trial court would lack jurisdiction to consider the matter.

Motion denied.