

Cite as 2009 Ark. 119 (unpublished)

## ARKANSAS SUPREME COURT

No. CR 08-550 & CACR 05-600

STEVEN SPARKS  
Appellant

v.

STATE OF ARKANSAS  
Appellee

Opinion Delivered March 5, 2009

PRO SE MOTIONS FOR LEAVE TO  
PETITION FOR DECLARATORY  
JUDGMENTS AND REVIEW AND  
FOR COPIES AT PUBLIC EXPENSE  
[CIRCUIT COURT OF WASHINGTON  
COUNTY, CR 2004-323]

MOTIONS DENIED.

### PER CURIAM

A jury found appellant Steven Sparks guilty of three counts of rape and three counts of terroristic threatening and sentenced him to 552 months' imprisonment. The Arkansas Court of Appeals affirmed. *Sparks v. State*, CACR 05-600 (Ark. App. Jun. 27, 2007). Through counsel, appellant filed in the trial court a petition for postconviction relief under Arkansas Rule of Criminal Procedure 37.1, which was denied. Counsel lodged an appeal of that order in this court, and appellant, proceeding pro se, sought to supplement the brief and relieve counsel. We denied appellant's pro se motions. *Sparks v. State*, CR 08-550 (Ark. Nov. 6, 2008) (per curiam).

Once again proceeding pro se, appellant has filed a "motion for leave to petition for declaratory judgments and review" in the appeal from denial of his Rule 37.1 petition, and a separate motion in this court in which he seeks to obtain copies of a no-merit brief filed in his direct appeal.<sup>1</sup>

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<sup>1</sup> For clerical purposes, the motion for copies has been filed under the docket number of the direct appeal. This court decides such motions because the motions are considered to be requests for



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Appellant is represented by counsel in his appeal of the denial of postconviction relief and his requests as to that appeal are denied on that basis, without consideration as to the merits.

An appellant is not entitled to accept appointment of counsel to represent him, and also proceed pro se. *Hamilton v. State*, 348 Ark. 532, 74 S.W.3d 615 (2002). Moreover, this court will not permit an appellant to compete with his attorney to be heard in an appeal. *Franklin v. State*, 327 Ark. 537, 939 S.W.2d 836 (1997) (per curiam); see also *Monts v. Lessenberry*, 305 Ark. 202, 806 S.W.2d 379 (1991) (per curiam). We will not consider pro se pleadings by appellant that attempt to assert claims in his pending appeal while appellant is represented by counsel. Appellant's motion to relieve counsel was denied in our previous decision.

In his motion seeking copies of the brief, appellant only indicates that he requires the copies to show that his right to due process was violated on direct appeal. To the extent that the motion may be intended for a purpose other than appellant's Rule 37.1 proceedings, appellant does not identify any postconviction relief proceedings that have been filed. A petitioner is not entitled to photocopying at public expense unless he or she demonstrates some compelling need for *specific* documentary evidence to support an allegation contained in a petition for postconviction relief. *Moore v. State*, 324 Ark. 453, 921 S.W.2d 606 (1996) (per curiam); see also *Austin v. State*, 287 Ark. 256, 697 S.W.2d 914 (1985) (per curiam). Appellant has failed to make such a specific demonstration.

We note that when an original action has been filed in this court, the material pertaining to it remains permanently on file with the clerk, unless it is being maintained under seal. Persons may

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postconviction relief. See *Williams v. State*, 273 Ark. 315, 619 S.W.2d 628 (1981).



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review the material in the clerk's office and photocopy all or portions of it. An incarcerated person desiring a photocopy of material on file here may write this court, remit the photocopying fee, and request that the copy be mailed to the prison. All persons, including prisoners, must bear the cost of photocopying. *Moore*, 324 Ark. at 455, 921 S.W.2d at 607.

Motions denied.