

**SUPREME COURT OF ARKANSAS**

No. CR 12-169

ANDREW DAVIS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered September 20, 2012

PRO SE MOTION TO FILE BELATED  
MOTION FOR RECONSIDERATION  
[DESHA COUNTY CIRCUIT COURT,  
CR 06-33, CR 06-34, HON. SAM POPE,  
JUDGE]MOTION DENIED.**PER CURIAM**

Petitioner Andrew Davis entered a plea of guilty to aggravated robbery in two separate criminal cases in the Desha County Circuit Court, for which he was sentenced as a habitual offender to 360 months' imprisonment in each case. After the judgment was entered, appellant filed in the trial court a pro se motion to correct a clerical mistake in the judgment-and-commitment order, contending that the Arkansas Department of Correction ("ADC") had miscalculated his parole-eligibility date. The motion was denied, and appellant appealed from the order. This court affirmed. *Davis v. State*, CR 08-285 (Ark. Oct. 2, 2008) (unpublished per curiam).

On January 12, 2012, petitioner filed in the circuit court a pro se petition for writ of error coram nobis, in which he again contended that the ADC had miscalculated his parole-eligibility date. The circuit court dismissed the petition, and this court dismissed his appeal from the circuit court's order. *Davis v. State*, 2012 Ark. 228 (per curiam). On June 13, 2012, twenty days after this court dismissed his appeal, petitioner tendered an untimely

motion for reconsideration, which was returned to him.<sup>1</sup>

Now before us is petitioner's motion for leave to file his motion for reconsideration belatedly. We have repeatedly held that all litigants, including those who proceed pro se, must bear responsibility for conforming to the rules of procedure or demonstrating a good cause for not doing so. *Davis v. State*, 2012 Ark. 70 (per curiam); *Ross v. State*, 2011 Ark. 270 (per curiam); *Marshall v. State*, 2009 Ark. 420 (per curiam); *Peterson v. State*, 289 Ark. 452, 711 S.W.2d 830 (1986) (per curiam). Petitioner's motion asserts that he followed ADC mail-room procedures, that an ADC sergeant mailed petitioner's original motion for reconsideration on June 8, and that petitioner relied on the "Mail Box Rule" for his conclusion that his motion was considered filed as of the date it was placed in the prison mail. This argument is unavailing; this court has never adopted the "prison mailbox rule." See *Ester v. State*, 2009 Ark. 442 (per curiam) (citing *Hamel v. State*, 338 Ark. 769, 1 S.W.3d 434 (1999)). An item tendered to a court is considered filed on the date it is received by the clerk, not on the date it may have been placed in the mail. *Id.*

We also note that there is no provision in the prevailing rules of procedure for filing a belated motion for reconsideration. See, e.g., *Gray v. State*, 2009 Ark. 419 (per curiam). Eighteen days has proven to provide ample opportunity for a party to assert any ground for reconsideration of this court's decision on any motion or petition. See *id.*

Motion denied.

BROWN, J., not participating.

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<sup>1</sup>Pursuant to Arkansas Supreme Court Rule 2-1(g) (2012), a motion for reconsideration must be filed within eighteen days of the date that this court acts on a matter. See *Gray v. State*, 2009 Ark. 419 (per curiam).