

SUPREME COURT OF ARKANSAS

No. CR 12-267

DAVID LEE VANCE

APPELLANT

v.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered May 31, 2012

PRO SE MOTIONS TO DISMISS APPEAL, FOR PHOTOCOPYING AT PUBLIC EXPENSE, AND FOR EXTENSION OF BRIEF TIME [SALINE COUNTY CIRCUIT COURT, CR 09-315, HON. GARY M. ARNOLD, JUDGE]

MOTION TO DISMISS APPEAL GRANTED; MOTION FOR PHOTOCOPYING AT PUBLIC EXPENSE DENIED; MOTION FOR EXTENSION OF BRIEF TIME MOOT.

PER CURIAM

Appellant, David Lee Vance, was convicted of rape and was sentenced to 240 months' incarceration in the Arkansas Department of Correction. We affirmed. *Vance v. State*, 2011 Ark. 392, ___ S.W.3d ___. Appellant then filed in the circuit court a petition for postconviction relief pursuant to Arkansas Rule of Criminal Procedure 37.1 (2011), which was denied without an evidentiary hearing. Appellant timely filed a notice of appeal from the circuit court's order.

Now before us are appellant's motions to dismiss the appeal, for extension of time in which to file his brief-in-chief, and for photocopying at public expense. In his motion to dismiss the appeal, appellant states that he still requests photocopying at public expense "for future legal proceedings." The motion to dismiss the appeal is granted. However, as appellant has failed to demonstrate a compelling need for specific documentary evidence to support an allegation contained in his petition for postconviction relief, the motion for photocopying at public expense is denied. Because the appeal is dismissed, appellant's motion for extension of time is

moot.

In his motion for photocopying at public expense, appellant seeks a copy of the brief filed by his attorney during appellant's direct appeal of his conviction. He states that he never received the brief from his attorney, and he is "not able to take care of [his] legal issue without it."

It is well settled that indigency alone does not entitle a petitioner to free photocopying. *Daniels v. State*, 2012 Ark. 124 (per curiam) (citing *Henderson v. State*, 2011 Ark. 522 (per curiam)); *Cox v. State*, 2011 Ark. 96 (per curiam); *Evans v. State*, 2009 Ark. 529 (per curiam). To be entitled to photocopying at public expense, a petitioner must show a compelling need for the material to support an allegation contained in a timely petition for postconviction relief. *Daniels*, 2012 Ark. 124 (citing *Hickey v. State*, 2010 Ark. 299 (per curiam)); *Avery v. State*, 2009 Ark. 528 (per curiam); *Bradshaw v. State*, 372 Ark. 305, 275 S.W.3d 173 (2008) (per curiam). Appellant requests that his instant appeal be dismissed, and he fails to identify any other timely petition for postconviction relief for which he might need a copy of the material that he seeks. Thus, he has failed to meet his burden of demonstrating a compelling need for the brief from his direct appeal to support an allegation contained in his Rule 37.1 petition, and his motion is denied.

Motion to dismiss appeal granted; motion for photocopying at public expense denied; motion for extension of brief time moot.