

SUPREME COURT OF ARKANSAS

No. CR12-434

MAURICE MEADOWS
PETITIONER

V.

STATE OF ARKANSAS
RESPONDENT

Opinion Delivered October 4, 2012

PRO SE MOTION FOR BELATED
APPEAL [MISSISSIPPI COUNTY
CIRCUIT COURT, CHICKASAWBA
DISTRICT, CR-05-01]

MOTION DENIED.

PER CURIAM

On August 16, 2005, petitioner Maurice Meadows entered a negotiated plea of guilty to a charge of first-degree murder in the Mississippi County Circuit Court, Chickasawba District, and he was sentenced to 360 months' incarceration in the Arkansas Department of Correction. Nearly six years later, petitioner filed in the circuit court a pro se petition for writ of error coram nobis, which the circuit court denied on October 7, 2011. Petitioner did not timely file a notice of appeal.

Now before us is petitioner's pro se motion to belatedly lodge an appeal from the circuit court's order. Because petitioner has not established good cause for his failure to perfect an appeal in a timely manner, the motion is denied.

Under Rule 2 of the Arkansas Rules of Appellate Procedure—Criminal (2012), as is relevant to this case, a person desiring to appeal a circuit court's order must file a proper notice of appeal with the clerk of the circuit court within thirty days of the date that the order is entered. *See* Ark. R. App. P.—Crim. 2(a). If a notice of appeal is not timely filed, this court

may still act on an appeal if a good reason for the failure is shown by affidavit. See Ark. R. App. P.–Crim. 2(e). However, the burden is on the petitioner to establish good cause for the failure to comply with proper procedure. *Fisher v. State*, 2012 Ark. 238 (per curiam) (citing *Johnson v. State*, 2012 Ark. 47 (per curiam)). This burden applies even where the petitioner proceeds pro se, as all litigants must bear the responsibility for conforming to the rules of procedure or demonstrating good cause for not so conforming. *Smith v. State*, 2011 Ark. 367 (per curiam); *Ross v. State*, 2011 Ark. 270 (per curiam); *Wright v. State*, 2010 Ark. 474 (per curiam).

Petitioner’s proffered reason for his failure to timely file a notice of appeal is that he was housed in administrative segregation at the time that the circuit court denied his petition, and a fellow inmate drafted a notice of appeal for petitioner, but that notice was lost by a third inmate who was supposed to deliver it to petitioner. We have consistently held that it is not the responsibility of anyone other than the petitioner to perfect an appeal. See *Smith*, 2011 Ark. 367 (citing *Wright v. State*, 2010 Ark. 474 (per curiam)); see also *Ester v. State*, 2009 Ark. 442 (per curiam) (citing *Sullivan v. State*, 301 Ark. 352, 784 S.W.2d 155 (1990)). Petitioner notes that the fellow inmate prepared a notice of appeal on October 10, 2011; thus, by petitioner’s own admission, he still had twenty-seven days after that document was lost in which he could have filed a notice of appeal. Ark. R. App. P.–Crim. 2(a). Additionally, we have held that reliance by one incarcerated person on another for legal assistance is not an excuse for failing to conform to procedural rules. See *Wright*, 2010 Ark. 474 (citing *Bragg v. State*, 297 Ark. 348, 760 S.W.2d 878 (1988)). An appellant may not by-pass the requirement

of filing a timely notice of appeal by simply asserting that he relied on an irresponsible fellow prisoner. *See Peterson v. State*, 289 Ark. 452, 711 S.W.2d 830 (1986) (per curiam).

Timely appeals from postconviction orders are frequently lodged in this court by incarcerated persons who, like petitioner, also may be assumed to face certain hurdles occasioned by their incarceration. *Smith*, 2011 Ark. 367. If this court were to grant a belated appeal merely because an incarcerated petitioner could point to some difficulty in complying with procedural requirements caused by his incarceration, there would be little use in promulgating procedural rules, as a petitioner could simply bypass the rules by claiming the burden of incarceration or a lack of knowledge of procedure. *See id.*; *Garner v. State*, 293 Ark. 309, 737 S.W.2d 637 (1987) (per curiam). Here, petitioner failed to act to preserve his right to appeal the postconviction order, and he has not met his burden of demonstrating that there was good cause for the failure to do so.

Motion denied.

Maurice Meadows, pro se appellant.

No response.