

IN THE CIRCUIT COURT OF LONOKE COUNTY, ARKANSAS
TWENTY-THIRD JUDICIAL DISTRICT
2ND DIVISION

HEATH STOCKS

PETITIONER

VS.

NO. 43 CR-97-9

STATE OF ARKANSAS

RESPONDENT

MOTION TO COMPEL THE LONOKE COUNTY CIRCUIT COURT CLERK TO PREPARE THE RECORD IN CASE NO 43 CR-97-9, AND SUBMIT THE RECORD TO THE ARKANSAS SUPREME COURT CLERK, SO THAT THE PETITIONER CAN PERFECT THE APPEAL FROM THE DENIAL OF HIS WRIT OF ERROR CORAM NOBIS AND WRIT OF AUDITA QUERELA PETITIONS AND MOTION TO EXTEND THE TIME FOR FILING OF THE RECORD IF THE CLERK CANNOT PREPARE THE RECORD WITHIN TIME TO MEET THE (90) DAY REQUIREMENT OF RULES OF APPELLATE PROCEDURE RULE 4 (b).

Comes now, Heath Stocks, the Appellant and Petitioner herein, moving this Court to compel the Lonoke County Circuit Court Clerk to prepare the Record in Case No. 43 CR -97-9 and submit the Record to the Arkansas Supreme Court Clerk, so that the Petitioner/Apellant can perfect the appeal from the denial of his writ of error coram nobis and writ of audita querela petitions, and Motion to extend the time for filing of the Record if the Clerk cannot prepare the Record within the time to meet the (90) day requirement of Rules of Appellate Procedure Rule 4 (b) ; and does so state;

1. The petitioner Heath Stocks filed his motion for the issuance of the writ of error coram nobis on September 20, 2017 and subsequently amended this petition on September 29, 2017 to include that Stocks was further moving for this court to consider the issuance of the writ of audita querela and other relief based upon the facts in the petition.

2. On January 18, 2018, this Court entered an Order denying relief, and Stocks timely filed a Notice of Appeal/Designation of Record and Motion to Proceed In Forma Pauperis on Appeal, of which this Court granted.

3. The Arkansas Supreme Court Rules of Appellate Procedure -Criminal Rule 4 (b) the Record must be filed with the Arkansas Supreme Court within (90) days from the filing of the Notice of Appeal.

4. The Rules of Appellate Procedure -Criminal Rule 4 (c) further gives this Court permission to extend the time for the filing of the Record with the appellate court. If this Court decides to enter such an extension, this Order must be entered by the Court prior to expiration of the (90) day time limit under Rule 4 (b) to file the appeal. If not the extension is invalid. *Daniels v State, 1999, 5 S. W. 3d 1, 338 Ark. 328.*

5. Stocks would be procedurally barred from perfecting an appeal to the Arkansas Supreme Court if the Lonoke County Circuit Court Clerk fails to prepare the Record in Case No. 43 CR - 97-9 by at least April 10, 2018. Stocks 14th Amendment U. S. C. A. Due Process and Equal Protection rights would be violated, if he does not have an opportunity to lodge the record with the Arkansas Supreme Court, and abstract those portions of the the Record that are pertinent to appeal from the order denying his petitions.

6. The Lonoke County Circuit Court Clerk should prepare the Record in Case No. 43 CR - 97-9 in compliance with Arkansas Supreme Court Rules 3-1, 3-2, 3-3, and 3-4; and provide Stocks with such a Record in a timely fashion, so that Stocks can lodge the Record in Case No. 43 CR -97-9 with the Arkansas Supreme Court Clerk.

7. Stocks has not filed this motion for purposes of delay or to overburden this Court. The failure of the Lonoke County Clerk to prepare the Record in Case No. 43 CR -97-9 will end Stocks's appellate process.

8. If there is a problem with the Lonoke County Circuit Court Clerk in preparing the Record for appeal, then the Lonoke County Circuit Court Clerk should contact the Arkansas Supreme Court Clerk and explain those reasons, and this Court may grant an extension of time for the preparation of the Record not beyond (7) seven months.

9. Stocks believes that his motion should be granted, and that he be allowed to perfect his appeal to the Arkansas Supreme Court.

CONCLUSION

WHEREFORE, Stocks prays that this Court grant his motions and order the Lonoke County Circuit Court Clerk to prepare the Record, and/or extend the time for Clerk to prepare the Record, so that Stocks can timely lodge the Record for appeal.

Respectfully submitted,
Heath Stocks
Heath Stocks

VERIFICATION OF SIGNATURE

I, Heath Stocks do swear and attest that I am filing this Motion to Compel the Lonoke County Circuit Court Clerk and Motion for Extension of Time to Lodge the Record with the Arkansas Supreme Court.

/s/ *Heath Stocks*
Heath Stocks

State of Arkansas
County of Jefferson

SUBSCRIBED AND SWORN TO BEFORE me a Notary Public on this 25th day of MARCH 2018.

[Signature]
Notary Public

JOHN SPEARS
NOTARY PUBLIC-STATE OF ARKANSAS
JEFFERSON COUNTY
My Commission Expires 03-09-2021
Commission # 12382198

My Commission Expires:

CERTIFICATE OF SERVICE

I, Heath Stocks hereby certify that I have serviced an exact copy of the foregoing to the Prosecuting Attorney Chuck Graham, Courthouse, 301 N. Center St., Ste. 301, Lonoke AR 72086-2892 on this 25 day of March 2018 by U. S. Mail postage prepaid.

[Signature]

Heath Stocks