

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

STATE OF ARKANSAS

PLAINTIFF

vs.

CR 97-9

HEATH STOCKS

DEFENDANT

RESPONSE TO DEFENDANT'S MOTION FOR APPOINTMENT OF COUNSEL

Comes now the State, by and through Deputy Prosecuting Attorney Ben Hooper, and states the following as a response to the Defendant's Motion for Appointment of Counsel.:

1. The Defendant has filed a petition for postconviction relief under error coram nobis. He subsequently filed a motion asking the Court to appoint counsel.
2. The State objects to the Defendant's motion for the reasons stated herein.
3. The Arkansas Supreme Court has continuously recognized that there is "no constitutional right to an attorney in state postconviction proceedings." *Viveros v. State*, 372 Ark.463 (2008). This is the case even when "an appellant is indigent and unskilled." *Id.*
4. *Viveros* does State that the Defendant is entitled to counsel postconviction if his petition makes a "substantial showing" that he is entitled to relief. In other words, if a Defendant's petition shows the possibility of merit and a hearing is required than counsel should be appointed. That is not the case here. As the State has shown in its response to the Defendant's requested relief, not only has the Defendant failed to raise any claims that are cognizable under error coram nobis or audita querela, but he has failed to even raise those claims in a diligent manner. Either reason requires the dismissal of the defendant's petition and both are present in this case. As was the case in *Viveros*: "None of the appellant's claims in his motion amount to a showing of merit." *Id.*

Therefore, the State objects to the Defendant's motion for appointment of counsel and asks that his request be denied.

Respectfully Submitted,



Ben Hooper
Deputy Prosecuting Attorney
301 North Center Street, St 301
Lonoke, Ar

CERTIFICATE OF SERVICE

I, Ben Hooper, Deputy Prosecuting Attorney, do hereby certify that a copy of the foregoing Response was mailed via first class mail to the Defendant at the following address on this 27th day of October, 2017.

Heath Stocks
ADC #110429
Maximum Security Unit
2501 State Farm Road
Tucker, Ar 72168-8713



Ben Hooper
Deputy Prosecuting Attorney