

SUPREME COURT OF ARKANSAS

Brown v. Gibson

423 S.W.3d 34 (Ark. 2012) · Decided June 21, 2012

SUMMARY

The Arkansas Supreme Court denied Louis Dudley Brown’s petition for a writ of mandamus seeking to compel the circuit judge to issue a written order addressing Brown’s pro se jurisdictional pleadings in a criminal case. The court held that Brown had not provided a sufficient record to show that the trial court failed to dispose of the pleadings or that Brown was entitled to a written order addressing their merits. The court explained that a represented defendant’s pro se motions may be struck or otherwise disposed of, but the form and substance of the disposition generally remain within the trial court’s discretion.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Arkansas
DECIDED	June 21, 2012
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Petition for writ of mandamus seeking an order directing a circuit judge to dispose of the petitioner's pro se pleadings and, more specifically, to enter a written order addressing the merits of a jurisdictional challenge so that the petitioner could seek interlocutory review.
STANDARD OF REVIEW	Mandamus is extraordinary relief, and the petitioner bears the burden of demonstrating a clear and certain right to relief, a ministerial duty that must be compelled, and the absence of another adequate remedy. The petitioner must also provide a record sufficient to support the requested relief.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential.
PARTIES	Louis Dudley Brown v. Robert Bynum Gibson, Jr., circuit judge

TOPICS

- appellate procedure
- remedies
- criminal procedure
- right to counsel
- interlocutory appeal

PRACTICE AREAS

criminal procedure

appellate procedure

extraordinary writs

right to counsel

QUESTIONS PRESENTED

1. Whether Brown was entitled to a writ of mandamus compelling the circuit court to enter a written order addressing the merits of his pro se jurisdictional pleadings.
2. Whether the circuit court had at least a ministerial duty to dispose of Brown's pro se pleadings on the record.
3. Whether Brown established that the trial court failed to act on the pleadings or that he had a clear and certain right to the requested relief.

HOLDINGS

1. Brown was not entitled to mandamus compelling a written order on the merits because he failed to establish that he was proceeding pro se before the trial court and failed to show that a written merits order was required.
2. A trial court has a ministerial duty to timely act on pleadings filed in the court, even if the pleadings are meritless or frivolous, and the disposition must be made a matter of record.
3. The petition for writ of mandamus was denied because Brown failed to establish a clear and certain right to relief, a failure by the trial court to perform a ministerial duty, or a record sufficient to demonstrate that mandamus was warranted.

KEY QUOTATIONS

“A writ of mandamus is issued to enforce an established right or to enforce the performance of a duty.”

“A court does have a ministerial duty to timely act upon pleadings filed in that court, regardless of the merit of those pleadings”

“There is no right to hybrid representation.”

“The burden is on a petitioner to bring up a record sufficient to support the petitioner’s grounds for relief.”

FACTUAL BACKGROUND

Brown was charged in Drew County with three felony drug-related counts arising from conduct alleged to have occurred on August 5, 2010. While the criminal proceedings were pending, he filed several pro se pleadings challenging the circuit court's jurisdiction and seeking a ruling that could be included in the appellate record. The record contained references to counsel for Brown, but did not establish that Brown had waived counsel or was proceeding pro se when he filed the pleadings. The record also lacked a transcript showing what occurred when the pleadings were discussed in the trial court.

PROCEDURAL HISTORY

A Drew County prosecuting attorney charged Brown with three felony drug-related offenses. Brown filed several pro se pleadings challenging the circuit court's jurisdiction and later petitioned the Arkansas Supreme Court for a writ of mandamus. The Supreme Court denied the petition because Brown failed to provide a sufficient record showing that the trial court had not disposed of the pleadings on the record or that the court had a ministerial duty to enter a written order addressing their merits.

DISPOSITION

writ_denied

CASES CITED

- Kelley v. Norris, 2012 Ark. 86
- Strain v. State, 2012 Ark. 184, 423 S.W.3d 1 (per curiam)
- Shook v. Huffman, 345 Ark. 43, 43 S.W.3d 735 (2001)
- Nelson v. Glover, 2012 Ark. 207
- Higgins v. Proctor, 2009 Ark. 496
- Monts v. Lessenberry, 305 Ark. 202, 806 S.W.2d 379 (1991) (per curiam)
- Faretta v. California, 422 U.S. 806, 95 S. Ct. 2525, 45 L. Ed. 2d 562 (1975)
- United States v. Mabie, 663 F.3d 322 (8th Cir. 2011)
- Murria v. Chandler, 2011 Ark. 56
- Williams v. State, 371 Ark. 550, 268 S.W.3d 868 (2007)
- C.H. v. State, 2010 Ark. 279, 365 S.W.3d 879
- State v. D.S., 2011 Ark. 45, 378 S.W.3d 87
- Davis v. State, 2012 Ark. 70

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