

IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS
WESTERN DISTRICT

FILED

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CHARLES JASON BALDWIN

ANN HUBSON
CIRCUIT COURT CLERK
PETITIONER

NO. CR 93-450B

STATE OF ARKANSAS

RESPONDENT

RESPONSE TO MOTION FOR PERMISSION TO ENLARGE PETITIONER'S
AMENDED RULE 37 PETITION FILED MAY 29, 2008

Comes now the State of Arkansas, by and through counsel, Brent Davis, Prosecuting Attorney, Second Judicial District, Dustin McDaniel, Attorney General, and David R. Raupp, Senior Assistant Attorney General, and for its response states:

1. Baldwin filed an amended Rule 37 petition asserting six bases for relief, to which the State responded by noting, *inter alia*, that only one basis—that advancing many ineffective-assistance claims—was cognizable. However, as those claims were only conclusorily made with no references to supporting exhibits or analysis of prejudice, the State further noted that the Court should deny him relief on the face of his petition without a hearing. Apparently in response to the State's argument, Baldwin now seeks permission to file an enlarged petition "to specifically contain all exhibits that have been filed" with the Court as to his Rule 37 petition and his habeas-corporus petition. The Court should deny that particular request for the reasons that follow.

2. A petitioner must state a legitimate ground or justification for filing an enlarged petition. See, e.g., Rowbottom v. State, 341 Ark. 33, 35, 13 S.W.3d 904, 906 (2000). Baldwin relies on only his desire to include all of his (over 75) exhibits so that the Court can review them to discover how they support his ineffective-

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assistance claims. Given the sheer numerosity of claims that he would like to raise, his current motion is simply a request that the Court unearth support for them in his tome of exhibits, which is hardly a legitimate ground for an enlarged petition.

Inasmuch as the ten-page limit *includes* exhibits, see Sanders v. State, 352 Ark. 16, 22, 98 S.W.3d 35, 39 (2003), it is incumbent upon him to demonstrate his claims wholly within ten pages.

In other words, the ten-page limit should operate to ensure that petitioners make the *best* claims, not the *most*, within the page limits allowed—particularly with regard to petitioners like Baldwin, who has had more than a decade to determine the fewest, best claims he might advance. Moreover, as the supreme court has said, “the rule limiting petitions to ten pages is an entirely reasonable restriction on petitioners seeking postconviction relief[, and] due process does not require courts to provide an unlimited opportunity to present postconviction claims or prevent a court from establishing limits on the number of pages in a petition.” Sanders, 352 Ark. at 22, 98 S.W.3d at 39 (citation omitted). After all, a single, cogent claim can lead to relief. See, e.g., Sparkman v. State, 373 Ark. 45, ___ S.W.3d ___ (2008).

Baldwin’s reliance on Sanders to support his motion for an expanded petition is wholly misplaced. There the supreme court concluded that dismissal of Sanders’ petition as too long was unreasonable because it carried over only one additional page, and that court is loathe to dispose of death-penalty cases on procedural grounds. Sanders, 352 Ark. At 22, 98 S.W.3d at 39. Baldwin, of course, is not on death row and is requesting a great deal more than one additional page. His request to add over 75 exhibits to his amended petition of conclusorily made, almost

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innumerable claims epitomizes the unlimited presentation of claims that Sanders explains is rightly foreclosed by the ten-page limit. In short, it is Baldwin's burden to produce a ten-page petition of discrete claims adequately supported by exhibits and analysis demonstrating that he is entitled to relief. His pleadings to date (and his request now for an enlarged petition) demonstrate an unwillingness to do so. Thus, the Court should deny his motion to add his exhibits to his pending amended petition and should deny that petition without a hearing.

3. In the event that the Court grants Baldwin's motion, however, the State seeks permission to file a post-hearing brief for the reasons explained in its earlier-filed response to his amended Rule 37 petition: to wit, at a hearing, Baldwin presumably will endeavor to demonstrate fewer, discrete, and serious claims in adequate detail to permit the State to respond to them.

WHEREFORE, the State respectfully asks that this Court deny Baldwin's motion to enlarge his amended Rule 37 petition or to permit post-hearing briefing as to claims the Court permits Baldwin to advance at a hearing.

Respectfully submitted,

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BY:

Brent Davis

ATTORNEYS FOR RESPONDENT

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CERTIFICATE OF SERVICE

I, David R. Raupp, Senior Assistant Attorney General, do hereby certify that I have served a copy of the foregoing pleading, by mailing a copy of same, by U.S. Mail, postage prepaid, to counsel for petitioner this 14th day of August, 2008, as follows:

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