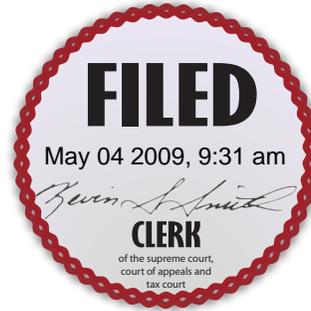


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



APPELLANT PRO SE:

ATTORNEYS FOR APPELLEE:

JAMES A. LOMAX
New Castle, Indiana

GREGORY F. ZOELLER
Attorney General of Indiana

ELLEN H. MEILAENDER
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

JAMES LOMAX,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 49A05-0811-PC-683

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable William Young, Judge
Cause No. 49G20-0008-CF-137979

May 4, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

ROBB, Judge

James Lomax appeals the trial court's denial of his motion for credit time for time served while on conditional release. We dismiss.

Lomax, proceeding pro se, initiated this appeal by filing a notice of appeal on November 5, 2008. According to our records, Lomax submitted his appellant's briefs and appendix on December 18, 2008. The briefs did not comply with Indiana Appellate Rule 46(A)(10) because they lacked a copy of the appealed order, and the appendix did not comply with Appellate Rule 50(2)(i) because it lacked a verification of accuracy and Appellate Rule 51(E) because it lacked a blue cover. The Clerk's Office sent Lomax a notice of defect. Lomax subsequently submitted copies of the appealed order to be placed in his briefs and an appendix bound in a blue cover. There was still no verification of accuracy in the appendix. Lomax was again notified of the defect. Lomax's brief was filed January 13, 2009; the appendix remained unfiled. The State filed its brief on February 11, 2009, using a courtesy copy of the appendix provided to the State by Lomax "based on the assumption that it is the same as the appendix tendered to the Court." Brief of Appellee at 2 n.1. As of March 10, 2009, the date the case was transmitted to this court, the defect in the appendix had not been cured and the appendix had accordingly not been filed.

It is the appellant's duty to present an adequate record clearly showing the alleged error, and failure to do so waives the issue. Thompson v. State, 761 N.E.2d 467, 471 (Ind. Ct. App. 2002). That Lomax is representing himself is no refuge, as a litigant who chooses to proceed pro se will be held to the same rules of procedure as trained legal counsel. Smith v. State, 822 N.E.2d 193, 202-03 (Ind. Ct. App. 2005), trans. denied.

We have previously held that a defendant may waive a claim of entitlement to credit for time served by failing to present us with sufficient information to determine the issue, including evidence of actual time served. Brattain v. State, 777 N.E.2d 774, 776 (Ind. Ct. App. 2002). Because Lomax has not submitted an appendix conforming to our rules, we have no information on which to base a decision. Accordingly, we dismiss Lomax's appeal.

Dismissed.

DARDEN, J., and BAILEY, J., concur.