

ARKANSAS COURT OF APPEALS

DIVISION II
No. CACR11-745

L.C. KENNEDY, JR.

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered February 1, 2012

APPEAL FROM THE CRAIGHEAD
COUNTY CIRCUIT COURT,
WESTERN DISTRICT
[NO. CR-2011-85]

HONORABLE LEE FERGUS, JUDGE

AFFIRMED

ROBIN F. WYNNE, Judge

This case arises out of an appeal from district court to circuit court in which the appellant, L.C. Kennedy, Jr., failed to properly perfect his appeal. We affirm.

On December 1, 2010, appellant appeared in the district court of Craighead County and pled no contest to two charges of contempt of court. He was sentenced to serve eighteen days in jail and pay certain fines and court costs. On that same date, appellant posted an appeal bond in the amount of \$615 and asked the district court clerk to prepare the necessary paperwork to appeal to the circuit court. However, the appeal transcript and certified docket sheet were not filed in the circuit court until January 27, 2011, well beyond the thirty-day deadline for filing an appeal.

Because appellant's appeal was untimely filed, the city attorney moved to dismiss the case. At a hearing before the circuit court, appellant testified that he sent his girlfriend to pick up the paperwork and file the appeal in circuit court "a couple of days" after his district-court conviction. Appellant claimed that he did not know he had to pay a filing



fee for the appeal and that he assumed the appeal bond would cover it. He also claimed that he did not know he only had thirty days in which to perfect his appeal. The circuit court found that the rule regarding the timely filing of an appeal must be strictly enforced and that appellant's ignorance of the law did not excuse him from being bound by it. The case was dismissed, and appellant appealed to this court.

Appeals from district court to circuit court are governed by Rule 36 of the Arkansas Rules of Criminal Procedure. Rule 36 states that an appeal from district court is perfected by filing with the circuit court a certified record of the district court proceedings within thirty days from the date of the entry of the district court judgment. Ark. R. Crim. P. 36(b), (c) (2011). The record of proceedings must include, at a minimum, a copy of the district court docket sheet and a copy of any bond or other security filed by the defendant. Ark. R. Crim. P. 36(c) (2011). It is the district court clerk's duty to prepare and certify the record at the defendant's request, but it is the defendant's responsibility to file the certified record with the circuit court clerk's office. *Id.* The filing requirement of this rule must be strictly enforced and is jurisdictional in nature. *Roberson v. State*, 2010 Ark. 433, at 2; *Frolos v. State*, 2010 Ark. App. 498, at 3.

In this case, appellant failed to file his appeal with the circuit court within thirty days of the entry of the district court judgment. Therefore, the circuit court lacked jurisdiction to hear his appeal, and it properly dismissed the case.

Affirmed.

HART and GLADWIN, JJ., agree.

Terry Goodwin Jones, for appellant.

Dustin McDaniel, Att'y Gen., by: *Rebecca B. Kane*, Ass't Att'y Gen., for appellee.