

ARKANSAS COURT OF APPEALS

DIVISION I

No. CR-18-1007

KYSTON BASS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered May 15, 2019

APPEAL FROM THE HOT
SPRING COUNTY CIRCUIT
COURT

[NO. 30CR-17-110]

HONORABLE CHRIS E
WILLIAMS, JUDGE

REMANDED FOR
SUPPLEMENTATION OF THE
RECORD AND ADDENDUM

BRANDON J. HARRISON, Judge

In 2017, Kyston Bass pled guilty to one count of residential burglary and one count of theft of property. Bass was sentenced to twenty-six years' imprisonment, but his sentence was deferred, and he was placed in the drug-court program. In June 2018, Bass was suspended from drug court after receiving three strikes and taken into custody to serve his sentence. Bass subsequently filed a petition for postconviction relief, which the circuit court denied after a hearing. He now appeals to this court. Because we are unable to confirm our jurisdiction, we remand this case to supplement the record and addendum.

Jurisdiction is a matter that we are obligated to raise on our own motion. *Hayes v. State*, 2013 Ark. 450. Pursuant to Ark. R. Crim. P. 37.2(c)(i) (2018), Bass was required to file his postconviction petition within ninety days of the date of entry of judgment. However, Bass's sentencing order is not in the record, so we cannot verify that his petition

was timely filed. We have previously held that if anything material to either party is omitted from the record by error or accident, we may direct that the omission be corrected and that a supplemental record be certified and transmitted. *Green v. State*, 2014 Ark. App. 580. Moreover, Rule 4-2(a)(8)(A)(i) of the Rules of the Arkansas Supreme Court and Court of Appeals specifically requires the addendum to contain the documents that are essential for the appellate court to confirm its jurisdiction. Because the sentencing order does not appear in either the record or the addendum of Bass’s brief, we remand to the circuit court to supplement the record with the June 2018 sentencing order within fifteen days of this opinion. After the supplemental record is lodged, we direct Bass to file a supplemental addendum within fifteen days from the date that the supplemental record is filed. We also encourage Bass to carefully review the rules and ensure that no other deficiencies exist before filing his supplemental addendum. We are not authorizing Bass to modify his arguments.

Finally, we note a section of the State’s response argument in which it urges this court not to address the merits of Bass’s arguments because “the record does not include the sentencing order.” The State is well aware of the requirements for this court to confirm its jurisdiction; because the State noticed this error, the better course of action, in the spirit of judicial economy, would have been to move to supplement the record.

Remanded for supplementation of the record and addendum.

GRUBER, C.J., and ABRAMSON, J., agree.

Phyllis J. Lemons, for appellant.

Leslie Rutledge, Att’y Gen., by: *Karen Virginia Wallace*, Ass’t Att’y Gen., for appellee.