

Cite as 2009 Ark. 250 (unpublished)

ARKANSAS SUPREME COURT

No. CR 08-1350

ALBERT L. KILPATRICK
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered April 30, 2009

APPELLEE'S MOTION TO DISMISS
[CIRCUIT COURT OF SEBASTIAN
COUNTY, FORT SMITH DISTRICT,
CR 93-1022, HON. J. MICHAEL
FITZHUGH, JUDGE]

MOTION GRANTED; APPEAL
DISMISSED.

PER CURIAM

In 1994, a jury found appellant Albert L. Kilpatrick guilty of possession of cocaine with intent to deliver and being a felon in possession of a firearm and sentenced him to an aggregate term of forty-four years' imprisonment. This court affirmed. *Kilpatrick v. State*, 322 Ark. 728, 912 S.W.2d 917 (1995). In 2008, appellant filed a petition to vacate the judgment in the trial court that was denied. Appellant lodged an appeal of the order in this court, and the State now brings this motion to dismiss the appeal.

The State's motion is based upon appellant's failure to file a brief within the time required. Appellant's brief was due to be filed in this court on December 29, 2008. As of this date, appellant has failed to tender a brief and has not requested an extension of time in which to file his brief. Accordingly, the State's motion is granted and the appeal is dismissed.

Motion granted; appeal dismissed.