

ARKANSAS SUPREME COURT

No. CR 08-1212

LEE DALE LOFTON, JR.
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered January 15, 2009

PRO SE MOTIONS FOR TRANSCRIPT
AND EXTENSION OF TIME TO FILE
BRIEF [CIRCUIT COURT OF PULASKI
COUNTY, CR 2007-3957, HON. CHRIS
PIAZZA, JUDGE]

APPEAL DISMISSED; MOTIONS MOOT.

PER CURIAM

On February 1, 2008, judgment was entered reflecting that appellant Lee Dale Lofton, Jr., had entered a plea of guilty to two counts of aggravated robbery, two counts of kidnapping, two counts of theft of property, two counts of fraudulent use of a credit card, and attempted capital murder. An aggregate sentence of 480 months' imprisonment was imposed.

On June 23, 2008, appellant filed in the trial court a pro se petition for postconviction relief pursuant to Arkansas Rule of Criminal Procedure 37.1. The petition was denied on the ground that it was not timely filed. Appellant has lodged an appeal in this court from the order and now seeks a copy of the transcript of his trial and an extension of time to file his brief.

The record lodged in this appeal does not contain a transcript of the proceedings in the trial court when appellant entered his plea. Even if the transcript were a part of the appeal record, however, there would be no good cause to allow the appeal to proceed because the Rule 37.1 petition was not timely filed. Accordingly, the appeal is dismissed. The motions for transcript and extension

of brief time are moot. This court has consistently held that an appeal of the denial of postconviction relief will not be permitted to go forward where it is clear that the appellant could not prevail. *Pardue v. State*, 338 Ark. 606, 999 S.W.2d 198 (1999) (per curiam); *Seaton v. State*, 324 Ark. 236, 920 S.W.2d 13 (1996) (per curiam); *Harris v. State*, 318 Ark. 599, 887 S.W.2d 514 (1994) (per curiam); *Reed v. State*, 317 Ark. 286, 878 S.W.2d 376 (1994) (per curiam).

When a guilty plea is entered, a petition pursuant to Rule 37.1 must be filed in accordance with Arkansas Rule of Criminal Procedure 37.2(c) within ninety days of the date the judgment of conviction in a criminal case was entered. Here, appellant filed the petition 143 days after the judgment in his case was entered. The time limits set out in Rule 37.2(c) are jurisdictional in nature, and the circuit court may not grant relief on a untimely petition for postconviction relief. *Maxwell v. State*, 298 Ark. 329, 767 S.W.2d 303 (1989).

Appeal dismissed; motions moot.