

Merril Lee CURRY *v.* STATE of Arkansas

CR 80-142

634 S.W.2d 139

Supreme Court of Arkansas
Opinion delivered June 7, 1982

1. CRIMINAL PROCEDURE — PRESUMPTION THAT SENTENCE PRONOUNCED ACCORDING TO STATUTE. — In the absence of any showing to the contrary, it will be presumed that a sentence is pronounced according to the statutes.
2. CRIMINAL PROCEDURE — NO POSTCONVICTION RELIEF IF GROUND OF ATTACK COULD HAVE BEEN RAISED IN THE TRIAL COURT. — Postconviction relief is not available to an accused who could have asserted the ground of her collateral attack in the trial court before sentence was pronounced but did not.
3. CRIMINAL PROCEDURE — NO WAY TO CREDIT JAIL TIME AGAINST LIFE SENTENCE. — There is no way to credit jail time against a life sentence since a life sentence is for the natural life of the person.

Petition for Jail Time Credit; denied.

Appellant, *pro se*.

Steve Clark, Atty. Gen., by: Leslie M. Powell, Asst. Atty. Gen., for appellee.

PER CURIAM. Petitioner Merrill Lee Curry was convicted of murder in the first degree in February 1978 and sentenced to life imprisonment in the Arkansas Department of Correction. We affirmed. *Curry v. State*, 272 Ark. 291, 613 S.W.2d 829 (1981). This Court later denied petitioner's petition for postconviction relief pursuant to Arkansas Criminal Procedure Rule 37. *Curry v. State* (not designated for publication, March 8, 1982). She has now filed a petition for credit for the time spent in jail prior to trial.

In the absence of any showing to the contrary, it will be presumed that a sentence is pronounced according to the statutes. *Coleman v. State*, 257 Ark. 538, 518 S.W.2d 487 (1975). Petitioner does not allege, and it does not appear from the face of the record, that the trial court did not afford

her the opportunity to ask for credit for jail time prior to sentencing.

Postconviction relief is not available to an accused who could have asserted the ground of her collateral attack in the trial court before sentence was pronounced but did not. *Coleman*, supra.

Furthermore, there is no way to credit jail time against a life sentence since a life sentence is for the natural life of the person. *Campbell v. State*, 265 Ark. 77, 576 S.W.2d 938 (1979).

Motion denied.
