

Jamie Lee THOMAS v. STATE of Arkansas

CR 85-1

716 S.W.2d 765

Supreme Court of Arkansas  
Opinion delivered September 29, 1986

CRIMINAL PROCEDURE — POSTCONVICTION RELIEF — NOT AVAILABLE  
TO GO BEHIND CONVICTIONS USED TO ENHANCE SENTENCE. — Rule  
37 does not provide a procedure to go behind a conviction used to  
enhance a sentence and question its legality.

Pro Se Rule 37 Petition; denied.

*Appellant, pro se.*

*Steve Clark, Att'y Gen., by: Theodore Holder, Asst. Att'y Gen., for appellee.*

PER CURIAM. A jury found petitioner Jamie Lee Thomas guilty of burglary and sentenced him as an habitual offender to a term of twenty five years imprisonment in the Arkansas Department of Correction. The Court of Appeals affirmed. *Thomas v. State*, CA CR 84-139 (January 2, 1985). Petitioner now seeks to proceed in circuit court pursuant to Criminal Procedure Rule 37.

Petitioner's first allegation is that his attorney prejudiced him by informing the jury that he was being tried as an habitual offender and that he had rejected an offer to negotiate a plea of guilty. The trial record does not support the allegation. The record indicates that the jury was not present when counsel referred to petitioner's status as an habitual offender and his decision to reject a negotiated plea.

[1] Petitioner's second allegation is that one or two of the prior convictions used to enhance his sentence were invalid because he was not afforded a speedy trial. He does not contend that he was not represented by counsel on the prior convictions. Rule 37 does not provide a procedure to go behind a conviction used to enhance a sentence and question its legality. If there is a basis for challenging the prior convictions, he should attack them in whatever proceeding may be available to him under the laws of the state in which the conviction was obtained or the laws of the United States.

Petition denied.

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