

Lawrence Edward BENSON v. STATE of Arkansas

CR 87-3

723 S.W.2d 373

Supreme Court of Arkansas
Opinion delivered February 9, 1987

PER CURIAM. Petition for Review is denied.

HICKMAN, J., concurs.

DARRELL HICKMAN, Justice, concurring. We can do nothing but deny this petition. This is the companion case to *Trotter v. State*, 290 Ark. 269, 719 S.W.2d 268 (1986). In *Trotter* a majority reduced the charge on a basis not even argued by the appellant. The court of appeals had no choice except to follow suit.

Bobby FRUIT v. A.L. LOCKHART, Director ARKANSAS
DEPARTMENT OF CORRECTION

86-285

723 S.W.2d 372

Supreme Court of Arkansas
Opinion delivered February 9, 1987

PER CURIAM. Appellant's petition for Writ of Certiorari is denied.

PURTLE, J., dissents.

JOHN I. PURTLE, Justice, dissenting. I believe the petition for a writ of certiorari should be treated as a request for Rule 37 relief. In *Walker v. State*, 283 Ark. 339, 676 S.W.2d 460 (1984), we said: "Post-conviction petitions which raise grounds for relief cognizable under Rule 37 are considered petitions to proceed under Rule 37, regardless of the label given them by the petitioner." On the other hand, if this is not a petition for Rule 37 relief, then we have denied the petitioner the right to appeal from the adverse ruling of the trial court.

I would send the petition to the Crittenden County Circuit Court for consideration since that is the court where the guilty plea was entered.
