

Isaiah ALLEN *v.* STATE of Arkansas

CR 77-57

553 S.W. 2d 690

April 11, 1977

Motion for belated appeal; Motion denied.

1. APPEAL & ERROR — NOTICE OF APPEAL — TIMELINESS REQUIRED.
— The filing of a timely notice of appeal is a jurisdictional prerequisite to review by the Supreme Court on appeal.
2. APPEAL & ERROR — REQUEST FOR BELATED APPEAL — POST-

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CONVICTION RELIEF. — A petitioner's request for belated appeal should be denied without prejudice to raising the allegations in a postconviction petition filed pursuant to Criminal Procedure Rule 37.

PER CURIAM

Petitioner was convicted of first degree rape in the Jefferson County Circuit Court. Petitioner presently alleges that due to retained counsel's failure to perfect an appeal, petitioner should be granted a belated appeal.

From a review of trial counsel's response to petitioner's present motion, it is apparent that a notice of appeal was tendered; however, for some reason, it was not filed on or before the statutory deadline. The filing of a timely notice of appeal is a jurisdictional prerequisite to our review of an appeal. Accordingly, in view of the above findings, we conclude that petitioner's request for belated appeal should be denied without prejudice to raising these allegations in a postconviction petition filed pursuant to Criminal Procedure Rule 37.

Motion denied.
