

Cite as 2011 Ark. 297

# SUPREME COURT OF ARKANSAS

No. CR 10-638

STATE OF ARKANSAS  
Appellant

v.

KENNETH HARRISON  
Appellee

Opinion Delivered July 27, 2011

APPEAL FROM PULASKI COUNTY  
CIRCUIT COURT, CR 2006-149,  
HON. MARION A. HUMPHREY,  
JUDGE

REVERSED.

## PER CURIAM

The State brings this appeal of an order entered in Pulaski County Circuit Court that granted appellee Kenneth Harrison a new trial on appellee's petition under Arkansas Rule of Criminal Procedure 37.1 (2011). The State is entitled to appeal from a circuit court's grant of a Rule 37.1 petition. *State v. Brown*, 2009 Ark. 202, 307 S.W.3d 587. Nevertheless, we do not reach the merits of the State's appeal, and we must reverse and vacate the order granting postconviction relief because the record before us demonstrates a lack of jurisdiction by the trial court in the matter.

In 2006, a jury found appellee guilty of capital murder and sentenced him to life imprisonment without parole. This court affirmed the judgment. *Harrison v. State*, 371 Ark. 652, 269 S.W.3d 321 (2007). The mandate issued on December 27, 2007. Because he appealed the conviction, Arkansas Rule of Criminal Procedure 37.2(c) (2010) required appellee to file any petition for relief under Rule 37.1 within sixty days of the date that the mandate issued. In order to comply with the rule, appellee must have filed a verified petition no later than February 25, 2008.

The time limitations in Rule 37.2(c) are jurisdictional in nature, and, if those requirements are not met, a trial court lacks jurisdiction to grant postconviction relief. *Butler v. State*, 2011 Ark. 218 (per curiam). The record before us contains a verified petition under Rule 37.1 that is file-marked May 29, 2009, and an unverified amended petition file-marked October 23, 2009. Although there is a reference to an amended petition file-marked February 25, 2008, in a response by the State, there is no reference to such an earlier amended petition by the trial court; the order references the petition and amended petition contained in the record and no earlier pleadings. The record before us does not establish that the trial court had jurisdiction to entertain the petition or grant relief.

Because it appears from the record before us that the trial court did not have jurisdiction to consider the petition, we reverse and vacate the order granting postconviction relief.

Reversed.