

**SUPREME COURT OF ARKANSAS**

No. CR 10-835

JERRY EATON

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

**Opinion Delivered** October 13, 2011

APPEAL FROM THE GREENE  
COUNTY CIRCUIT COURT, CR  
2003-134, HON. DAVID N. LASER,  
JUDGE

APPEAL DISMISSED.

**PER CURIAM**

Appellant Jerry Eaton was found guilty by a jury of rape and incest. He was sentenced to 240 months' imprisonment for rape and thirty-six months for incest, with the sentences to run consecutively. The Arkansas Court of Appeals affirmed. *Eaton v. State*, CACR 05-1372 (Ark. App. Feb. 28, 2007) (unpublished). The mandate issued on March 20, 2007.

On May 29, 2007, appellant filed in the trial court a petition for postconviction relief pursuant to Arkansas Criminal Procedure Rule 37.1 (2005). The petition was denied on the ground that it was not timely filed, and appellant brings this appeal.

If a direct appeal is taken from a conviction, and the conviction is affirmed on appeal, a Rule 37.1 petition must be filed within sixty days of the date the mandate was issued by the appellate court. Ark. R. Crim. P. 37.2(c) (2010). Time limitations imposed in Rule 37.2(c) are jurisdictional in nature, and if they are not met, a trial court lacks jurisdiction to consider a Rule 37.1 petition. *Sims v. State*, 2011 Ark. 135 (per curiam); *Trice v. State*, 2011 Ark. 74



Cite as 2011 Ark. 436

(per curiam) (citing *Mills v. State*, 2010 Ark. 390 (per curiam)); *Gardner v. State*, 2010 Ark. 344 (per curiam); *Harris v. State*, 2010 Ark. 314 (per curiam); *Crawford v. State*, 2010 Ark. 313 (per curiam).

Here, appellant failed to file his petition within the sixty days required by Rule 37.2. As such, the circuit court was without jurisdiction to consider it. *Sims*, 2011 Ark. 135. Where the circuit court lacks jurisdiction, the appellate court also lacks jurisdiction. *Id.*; see also *Clark v. State*, 362 Ark. 545, 210 S.W.3d 59 (2005).

On appeal, appellant acknowledges that his Rule 37.1 petition was not timely filed but argues that this court should overrule its prior case law holding that the filing requirements of Rule 37.2 are jurisdictional. According to appellant, this court should instead hold that the time limit set forth in Rule 37.2 is a statute of limitations, similar to the time requirements established for the filing of a habeas petition in federal court.<sup>1</sup> Appellant has presented no compelling reason or argument for us to overrule our precedent. We do not lightly overrule cases, and we apply a strong presumption in favor of the validity of prior decisions. See, e.g., *Thomas v. State*, 370 Ark. 70, 257 S.W.3d 92 (2007); *State v. Singleton*, 340 Ark. 710, 13 S.W.3d 584 (2000). As a matter of public policy, it is necessary to uphold our prior decisions unless a great injury or injustice would result. *Thomas*, 370 Ark. 70, 257 S.W.3d 92. We decline to overrule our precedent and dismiss the appeal, as appellant failed to timely file the Rule 37.1 petition.

Appeal dismissed.

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<sup>1</sup>Appellant also makes a passing argument that the State waived any objection to the timeliness of his Rule 37.1 petition by failing to file a response to his original petition or the amended petitions. This court has held that the issue of subject-matter jurisdiction cannot be waived by either party. *Reed v. State*, 2011 Ark. 115 (per curiam).