

SUPREME COURT OF ARKANSAS

No. CR12-605

JANET K. DENSON

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered May 16, 2013

PRO SE MOTIONS FOR EXTENSION
OF TIME TO FILE BRIEF AND FOR
APPOINTMENT OF COUNSEL
[SEVIER COUNTY CIRCUIT COURT,
CR 11-17, HON. TOM COOPER,
JUDGE]APPEAL DISMISSED; MOTIONS
MOOT.**PER CURIAM**

On April 30, 2012, appellant Janet K. Denson filed in the trial court a petition for reduction of sentence under Arkansas Code Annotated section 16-90-111 (Supp. 2011) seeking relief following her 2012 conviction for theft of property. The court denied the petition, and appellant lodged an appeal of the order in this court. She has filed motions requesting an extension of time to file her brief and appointment of counsel. Because we dismiss the appeal, the motions are moot.

This court will not permit an appeal to go forward from an order that denied a petition for postconviction relief where it is clear that the appellant could not prevail. *Purifoy v. State*, 2013 Ark. 26 (per curiam). In a case such as this, where it is clear that appellant could not prevail on appeal, we need not consider the motions. *Id.*

The trial court entered a sentencing order on March 20, 2012, reflecting that appellant was found guilty in a bench trial and sentenced to 120 months' imprisonment. The judgment

was not appealed, and appellant's petition was timely filed under the statute.¹ Ark. Code Ann. § 16-90-111(b)(1); *see also Hickman v. State*, 2012 Ark. 359 (per curiam) (an order under the statute that reduces a sentence must be entered within ninety days after the sentence is imposed or within sixty days after receipt of a mandate affirming the judgment or dismissing an appeal); *Morgan v. State*, 2012 Ark. 227 (per curiam); *Reynolds v. State*, 2011 Ark. 5 (per curiam). The trial court, nevertheless, was constrained in its ability to grant relief under the statute because a trial court is without jurisdiction to modify, amend, or revise a valid sentence once it has been put into execution. *Carter v. State*, 2010 Ark. 349 (per curiam). The sentence was put into execution when the trial court issued the sentencing order. *See id.*

The trial court would not have been limited in this way on a claim of an illegal sentence, but appellant did not contend that her sentence was illegal. *See Gavin v. State*, 354 Ark. 425, 125 S.W.3d 189 (2003) (“A circuit court has jurisdiction to correct an illegal sentence even if it has been placed into execution.”). She based her grounds for relief only on her contention that she was remorseful, sought forgiveness, and asked for leniency. The trial court was therefore without authority to grant relief on appellant's proposed bases. Appellant's petition was without merit, and it is clear that she cannot prevail on appeal.

Appeal dismissed; motions moot.

Janet K. Denson, pro se appellant.

No response.

¹In the event that the trial court had determined that the petition should be treated as one under Arkansas Rule of Criminal Procedure 37.1 (2012), the petition would also have been timely filed. *See* Ark. R. Crim. P. 37.2 (c)(i). Appellant's grounds for relief, however, were not cognizable under Rule 37.1.