

SUPREME COURT OF ARKANSAS

No. CR-16-275

CLAUDE SMITH

PETITIONER

V.

STATE OF ARKANSAS

RESPONDENT

Opinion Delivered May 5, 2016

PRO SE MOTION FOR BELATED
APPEAL OF ORDER

[MILLER COUNTY CIRCUIT COURT,
NO. 46CR-10-431]

MOTION DISMISSED.

PER CURIAM

In 2011, petitioner Claude Smith was found guilty by a jury of aggravated robbery and sentenced to 360 months' imprisonment. The Arkansas Court of Appeals affirmed. *Smith v. State*, 2012 Ark. App. 534, 423 S.W.3d 624, reh'g denied (Oct. 31, 2012).

In 2013, Smith filed in the trial court a pro se petition for postconviction relief pursuant to Arkansas Rule of Criminal Procedure 37.1 (2011). The petition was dismissed on June 25, 2013, on the ground that it was not timely filed. No appeal was taken from the order, and Smith, proceeding pro se, now seeks leave to proceed with a belated appeal of the order.

Belated appeals in Rule 37.1 cases are governed by Rule 2(e) of the Arkansas Rules of Appellate Procedure—Criminal (2015). The Rule provides in pertinent part that “no motion for belated appeal shall be entertained by the Supreme Court unless application has been made to the Supreme Court within eighteen (18) months of the date of entry of judgment or the order denying postconviction relief.” Smith filed the instant motion for

belated appeal here on March 28, 2016. The eighteen-month period to file a motion for belated appeal in the instant case elapsed in December 2014. Accordingly, Smith did not meet his burden of filing a timely motion under the Rule.

This court has consistently held that no motion for belated appeal will be considered unless application is made within the eighteen-month period allowed by the Rule. *Gunderman v. State*, 2014 Ark. 354 (per curiam). Because Smith failed to file the motion within the period allowed by Rule 2(e), the motion is dismissed. *Jackson v. State*, 2016 Ark. 95 (per curiam).

Motion dismissed.