

**SUPREME COURT OF ARKANSAS**

No. CR 10-927

ROBERT COLEMAN  
Appellant

v.

STATE OF ARKANSAS  
Appellee

**Opinion Delivered** December 9, 2010

PRO SE MOTION FOR EXTENSION  
OF TIME TO FILE BRIEF  
[ARKANSAS COUNTY CIRCUIT  
COURT, NORTHERN DISTRICT,  
CR 2008-216, CR 2008-217, HON.  
DAVID G. HENRY, JUDGE]

APPEAL DISMISSED; MOTION MOOT.

**PER CURIAM**

In 2009, appellant Robert Coleman entered a plea of guilty in the Arkansas County Circuit Court, Northern District, to sexual assault in the second degree in CR 2008-216 and to two counts of rape in CR 2008-217. Amended judgments in the two cases were entered on December 14, 2009, and a second amended judgment was entered in CR 2008-216 on January 28, 2010. Appellant was sentenced in the two cases to an aggregate term of 240 months' imprisonment.

On August 16, 2010, appellant filed in the trial court in the cases one pro se petition for postconviction relief pursuant to Criminal Procedure Rule 37.1 (2010). The petition was denied on the ground that it was not a timely petition under the rule. Appellant has lodged an appeal here from the order. Now before us is a motion filed by appellant for an extension of time to file his brief-in-chief.

As it is clear from the face of the record that the Rule 37.1 petition was not timely filed, we dismiss the appeal. The motion for extension of time is moot. This court has consistently held that a postconviction appeal will not be permitted to go forward where it is clear that the appellant could not prevail. *Gardner v. State*, 2010 Ark. 344 (per curiam); *Harris v. State*, 2010 Ark. 314 (per curiam); *Crawford v. State*, 2010 Ark. 313 (per curiam); *Robertson v. State*, 2010 Ark. 300 , 367 S.W.3d 538 (per curiam); *Carter v. State*, 2010 Ark. 231, 364 S.W.3d 46 (per curiam); *Gray v. State*, 2010 Ark. 216 (per curiam); *see Tillman v. State*, 2010 Ark. 103 (per curiam); *Pierce v. State*, 2009 Ark. 606 (per curiam); *Grissom v. State*, 2009 Ark. 557 (per curiam); *see also Pardue v. State*, 338 Ark. 606, 999 S.W.2d 198 (1999) (per curiam); *Seaton v. State*, 324 Ark. 236, 920 S.W.2d 13 (1996) (per curiam).

Arkansas Rule of Criminal Procedure 37.2(c) (2010) provides that a petition under the rule must be filed within ninety days of the date the judgment was entered if the petitioner entered a plea of guilty. Here, appellant filed the petition August 16, 2010, more than ninety days after the judgments of conviction were entered in the two cases. 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. *Gardner*, 2010 Ark. 344; *Harris*, 2010 Ark. 314; *Crawford*, 2010 Ark. 313; *Gray*, 2010 Ark. 216; *see Tillman*, 2010 Ark. 103 (citing *Lauderdale v. State*, 2009 Ark. 624 (per curiam)); *see also Maxwell v. State*, 298 Ark. 329, 767 S.W.2d 303 (1989).

Appeal dismissed; motion moot.