

ARKANSAS SUPREME COURT

No. CR 08-1185

DANIEL DELOACH

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered February 18, 2010

APPEAL FROM THE CIRCUIT
COURT OF JACKSON COUNTY [CR
2005-138]

HON. HAROLD S. ERWIN, JUDGE

DISMISSED.

PER CURIAM

On January 18, 2008, judgment was entered reflecting that appellant Daniel DeLoach had entered a plea of guilty to manufacturing a controlled substance, possession of drug paraphernalia with intent to manufacture a controlled substance, and possession of drug paraphernalia with intent to use a controlled substance. An aggregate term of 160 months' imprisonment was imposed.

On August 6, 2008, appellant filed in the trial court a pro se petition to correct an illegal sentence pursuant to Arkansas Code Annotated § 16-90-111 (Repl. 2006). The petition was denied, and appellant brings this appeal.

We do not reverse a denial of postconviction relief unless the trial court's findings are clearly erroneous. *Greene v. State*, 356 Ark. 59, 146 S.W.3d 871 (2004). A finding is clearly erroneous when, although there was evidence to support it, the appellate court after reviewing the entire evidence is left with the definite and firm conviction that a mistake has been



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committed. *Flores v. State*, 350 Ark. 198, 85 S.W.3d 896 (2002).

Arkansas Code Annotated § 16-90-111 has been superseded to the extent that it conflicts with the time limitations for postconviction relief under Arkansas Rule of Criminal Procedure 37.1. *Womack v. State*, 368 Ark. 341, 245 S.W.3d 154 (2006) (per curiam). As appellant entered a guilty plea to the criminal offenses, he was required to seek relief under the rule within ninety days from the date that the judgment was entered. Ark. R. Crim. P. 37.2(c) (2008); *State v. Wilmoth*, 369 Ark. 346, 255 S.W.3d 419 (2007); see also *Lauderdale v. State*, 2009 Ark. 624 (per curiam). Appellant's petition was filed 201 days after the date that the judgment was entered in his case. Time limitations imposed in Rule 37.2(c) are jurisdictional in nature, and if they are not met, a trial court lacks jurisdiction to grant postconviction relief. See *Maxwell v. State*, 298 Ark. 329, 767 S.W.2d 303 (1989); see also *Buckhanna v. State*, 2009 Ark. 490 (per curiam). As appellant did not file a timely petition, the trial court did not err in denying the relief sought.

Dismissed.

Daniel DeLoach, pro se appellant.

Dustin McDaniel, Att'y Gen., by: *Karen Virginia Wallace*, Att'y Gen., for appellee.