

# ARKANSAS SUPREME COURT

No. CR 07-299

DOMINIC SIMPSON  
Appellant

v.

STATE OF ARKANSAS  
Appellee

Opinion Delivered May 17, 2007

PRO SE MOTIONS FOR  
EXTENSION OF TIME TO FILE  
APPELLANT'S BRIEF [CIRCUIT  
COURT OF GARLAND COUNTY,  
CR 99-570, HON. JOHN HOMER  
WRIGHT, JUDGE

APPEAL DISMISSED.

## PER CURIAM

In 2000, a jury found appellant Dominic Simpson guilty of first-degree murder and sentenced him to 480 months' imprisonment in the Arkansas Department of Correction. The Arkansas Court of Appeals affirmed the judgment. *Simpson v. State*, CACR 01-684 (Ark. App. Dec. 19, 2001). On October 23, 2006, appellant filed in the trial court a pro se petition for postconviction relief under Ark. R. Crim. P. 37.1. The trial court dismissed the petition as untimely, and appellant has lodged an appeal of that order in this court. Appellant has filed two pro se motions requesting an extension of time in which to file appellant's brief. With the second motion, he includes statements by another prisoner who has assisted appellant in preparation of the brief. Those statements attest to certain difficulties concerning appellant's ability to communicate without assistance and the limitations resulting from incarceration.

We agree with the trial court's finding that the petition was untimely and we must therefore dismiss the appeal. This court has consistently held that an appeal of the denial of postconviction

relief will not be permitted to go forward where it is clear that the appellant could not prevail. *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); *Harris v. State*, 318 Ark. 599, 887 S.W.2d 514 (1994) (per curiam); *Reed v. State*, 317 Ark. 286, 878 S.W.2d 376 (1994) (per curiam). It is clear that appellant cannot prevail as his petition was not timely.

Arkansas Rule of Criminal Procedure 37.2(c) requires that the petition for postconviction relief must be filed within sixty days of the date the mandate issued. Here, appellant filed his petition more than four years after the mandate issued on January 8, 2002. The time limitations imposed in Ark. R. Crim. P. 37.2(c) are jurisdictional in nature. The circuit court may not grant relief on a petition for postconviction relief which is not timely filed. *Benton v. State*, 325 Ark. 246, 925 S.W.2d 401 (1996) (per curiam). The trial court correctly determined that it did not have jurisdiction to grant relief.

Appeal dismissed.