

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2004-KA-00095-COA

VENTURA DONNELL MOORE, SR.

APPELLANT

v.

STATE OF MISSISSIPPI

APPELLEE

DATE OF JUDGMENT:	5/12/2003
TRIAL JUDGE:	HON. ROBERT B. HELFRICH
COURT FROM WHICH APPEALED:	FORREST COUNTY CIRCUIT COURT
ATTORNEYS FOR APPELLANT:	JONATHAN MICHAEL FARRIS
ATTORNEY FOR APPELLEE:	OFFICE OF THE ATTORNEY GENERAL BY: BILLY L. GORE
DISTRICT ATTORNEY:	JON MARK WEATHERS
NATURE OF THE CASE:	CRIMINAL - FELONY
TRIAL COURT DISPOSITION:	CONVICTED OF SIMPLE ROBBERY AND SENTENCED AS AN HABITUAL OFFENDER TO 15 YEARS IN THE CUSTODY OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS.
DISPOSITION:	APPEAL DISMISSED: 10/25/2005
MOTION FOR REHEARING FILED:	
CERTIORARI FILED:	
MANDATE ISSUED:	

BEFORE KING, C.J., IRVING AND BARNES, JJ.

KING, C.J., FOR THE COURT:

¶1. On May 8, 2003, Ventura Donnell Moore, Sr. was convicted of simple robbery in the Circuit Court of Forrest County. Moore was sentenced as an habitual offender to serve a term of fifteen years in the custody of the Mississippi Department of Corrections without the possibility of parole. The trial court entered its judgment on May 12, 2003. On November 12, 2003, Moore filed a Motion for Judgment

Notwithstanding the Verdict, or in the Alternative, a New Trial. Although the record does not contain a ruling on Moore's untimely motion, Moore seeks to appeal the denial of the motion. Finding Moore's appeal to be time-barred, we dismiss the appeal.

ANALYSIS

¶2. Rule 4(a) of the Mississippi Rules of Appellate Procedure states that a notice of appeal must be filed with the clerk of the trial court within thirty days after the entry of judgment. If a defendant timely files certain post-trial motions, including motions for judgment of acquittal notwithstanding the verdict of the jury or motions for a new trial, the time for appeal runs from the date of the entry of the order denying the motion. M.R.A.P. 4(e). Rule 4(e) of the Mississippi Rules of Appellate Procedure only tolls the time for filing a notice of appeal if a motion is timely filed. Moore filed his Motion for Judgment Notwithstanding the Verdict, or in the Alternative, a New Trial six months after the entry of judgment. Rule 10.05 of the Uniform Rules of Circuit and County Court Practice states that a motion for a new trial must be made within ten days of the entry of judgment. Moore's appeal is clearly time-barred. We must, therefore, dismiss the appeal for lack of jurisdiction.

¶3. **THE APPEAL OF THE JUDGMENT OF THE FORREST COUNTY CIRCUIT COURT IS HEREBY DISMISSED. ALL COSTS OF THIS APPEAL ARE ASSESSED TO FORREST COUNTY.**

BRIDGES AND LEE, P.JJ., IRVING, MYERS, CHANDLER, GRIFFIS, BARNES AND ISHEE, JJ., CONCUR.