

SUPREME COURT OF ARKANSAS

No. CR-15-448

JAMES ANTHONY GOULD
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered September 17, 2015

PRO SE MOTION TO SUPPLEMENT
THE RECORD AND TO STAY BRIEF
TIME
[POPE COUNTY CIRCUIT COURT,
NO. 58CR-12-368]HONORABLE WILLIAM M.
PEARSON, JUDGEMOTION GRANTED IN PART AND
DENIED IN PART; BRIEF DUE
THIRTY DAYS FROM THE DATE OF
THIS OPINION.**PER CURIAM**

In 2013, appellant James Anthony Gould was found guilty by a jury in the Pope County Circuit Court of aggravated robbery, and he was sentenced to an aggregate term of 660 months' imprisonment in the Arkansas Department of Correction. The Arkansas Court of Appeals affirmed. *Gould v. State*, 2014 Ark. App. 543, 444 S.W.3d 408. Gould subsequently filed a timely, verified pro se petition for postconviction relief pursuant to Arkansas Rule of Criminal Procedure 37.1 (2013). The circuit court denied relief without a hearing, and Gould timely lodged an appeal from the order. Now before us is Gould's pro se motion to supplement the record and to stay brief time.

As this is Gould's first request for an extension of time to file the appellant's brief-in-chief, and because it cannot be determined from a brief review of the record that the appeal is

wholly without merit, we grant Gould's request for additional time. The appellant's brief-in-chief is due thirty days from the date of this opinion.

Gould also seeks leave of this court to supplement the record to include the transcript of his trial, as well as the appellant's brief-in-chief that was filed in his direct appeal. The transcript of Gould's trial is included in the record that was lodged in his direct appeal, and it is not necessary to supplement the record to include the transcript because this court takes judicial notice of the record on direct appeal in postconviction proceedings. *Davis v. State*, 2013 Ark. 118 (per curiam). Gould's request to supplement the record to include the trial transcript is therefore denied. To the extent that Gould seeks to supplement the record to include the appellant's brief-in-chief that was filed in his direct appeal, we deny the request because the brief was not included in the record before the circuit court when it denied Gould's request for postconviction relief. This court has long and consistently held that it cannot, in the exercise of its appellate jurisdiction, receive testimony or consider anything outside the record below. *See, e.g., Darrough v. State*, 2013 Ark. 28 (per curiam).

Motion granted in part and denied in part; brief due thirty days from the date of this opinion.