

Cite as 2009 Ark. 468

**ARKANSAS SUPREME COURT**

No. CR 09-490

MICHAEL L. DOUGLAS  
Petitioner

v.

STATE OF ARKANSAS  
Respondent

**Opinion Delivered**      October 1, 2009

PRO SE MOTION FOR BELATED  
APPEAL OR RULE ON CLERK  
[CIRCUIT COURT OF DREW  
COUNTY, CR 2006-149, CR 2006-161,  
CR 2007-1, CR 2007-3, CR 2007-4,  
HON. ROBERT BYNUM GIBSON, JR.,  
JUDGE]

MOTION TREATED AS MOTION FOR  
BELATED APPEAL AND DISMISSED.

**PER CURIAM**

On March 19, 2007, petitioner Michael L. Douglas entered unconditional pleas of guilty to various felony charges in five separate criminal matters and was sentenced to an aggregate term of 480 months' imprisonment. Subsequently, petitioner apparently filed a petition for postconviction relief pursuant to Arkansas Rule of Criminal Procedure 37.1, although the petition is not contained in the partial record before us. On August 9, 2007, the trial court entered an order that denied the Rule 37.1 petition, and the record indicates that a notice of appeal was not filed.

On May 8, 2009, petitioner filed the instant pro se motion for belated appeal from entry of the order, or motion for rule on clerk, that is now before us. The motion is treated as a motion for belated appeal as no notice of appeal is contained in the record. *See Holland v. State*, 358 Ark. 366, 190 S.W.3d 904 (2004) (per curiam) (citing *Johnson v. State*, 342 Ark. 709, 30 S.W.3d 715 (2000) (per curiam)).

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Belated appeals in criminal cases are governed by Rule 2(e) of the Rules of Appellate Procedure–Criminal. The rule provides in pertinent part that “no motion for belated appeal shall be entertained by the Supreme Court unless application has been made to the Supreme Court within eighteen (18) months of the date of entry of judgment or entry of the order denying postconviction relief[.]” In this matter, the eighteen-month period to file a motion for belated appeal from the order entered on September 9, 2007, elapsed on February 9, 2009.

It is incumbent on a petitioner to file a motion for belated appeal in a timely manner inasmuch as an untimely motion for belated appeal is subject to dismissal. *Bennett v. State*, 362 Ark. 411, 208 S.W.3d 775 (2005) (per curiam). As petitioner failed to file the motion within the period allowed by Rule 2(e), the motion is dismissed.

Motion treated as motion for belated appeal and dismissed.