

Cite as 2009 Ark. 100 (unpublished)

ARKANSAS SUPREME COURT

No. CR 08-1238

JAMES CRAIG SMITH
Petitioner

v.

STATE OF ARKANSAS
Respondent

Opinion Delivered February 26, 2009

PRO SE MOTION FOR BELATED
APPEAL [CIRCUIT COURT OF
RANDOLPH COUNTY, CR 2006-18,
HON. HAROLD S. ERWIN, JUDGE]

MOTION DISMISSED.

PER CURIAM

On May 12, 2006, a jury found petitioner James Craig Smith guilty of ten counts of rape and sentenced him to an aggregate term of 240 months' imprisonment. The record indicates that a notice of appeal was not filed in the trial court. On October 27, 2008, petitioner filed in this court a pro se motion for belated appeal from the judgment that is now before us.¹

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 . . . from which the appeal is taken” In this matter, the eighteen-month period to file a motion for belated appeal elapsed on November 12, 2007.

¹On January 5, 2009, petitioner filed in this court an amended motion for belated appeal. As the initial motion is dismissed, the amended motion is moot.



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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 dismissed.