

SUPREME COURT OF ARKANSAS

No. CR 10-628

DEANDRA STEPHENSON
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE**Opinion Delivered** December 1, 2011PRO SE APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT, CR 2006-
3914, HON. MARION A. HUMPHREY,
JUDGEAPPEAL DISMISSED.**PER CURIAM**

On March 14, 2007, appellant Deandra Stephenson was found guilty by a Pulaski County jury of two counts of capital murder and one count of committing a terroristic act. He received consecutive sentences of life without parole for each of the capital murder convictions, forty years for the terroristic act, and an additional forty-five years' incarceration pursuant to Arkansas Code Annotated section 16-90-120 (Repl. 2006) based on his use of a firearm in the commission of the crimes. This court affirmed. *Stephenson v. State*, 373 Ark. 134, 282 S.W.3d 772 (2008).

Appellant filed in the circuit court two petitions for postconviction relief under Arkansas Rule of Criminal Procedure 37.1 (2008): an unverified, nineteen-page "Amended Petition for Relief" dated May 9, 2008, and a verified, five-page "Amended Petition for Relief" dated December 21, 2009. The circuit court held a hearing, addressing both petitions, and entered an order denying relief on February 27, 2010. It is from that order that appellant brings the instant appeal. Despite the fact that the circuit court reached the merits of appellant's claims, we find that the circuit court was without jurisdiction to consider either of appellant's petitions, and we

dismiss the appeal.¹

Regarding appellant's unverified May 9, 2008 petition, Arkansas Rule of Criminal Procedure 37.1 provides that a petitioner in custody under sentence of a circuit court claiming a right to be released, or to have a new trial, or to have the original sentence modified on the ground that the sentence is subject to collateral attack, may file a *verified* petition in the court which imposed the sentence. *Shaw v. State*, 363 Ark. 156, 211 S.W.3d 506 (2005) (per curiam) (emphasis in original). Subsection (d) of that Rule provides that the circuit clerk shall not accept for filing, and the circuit court or any appellate court shall dismiss, any petition that is not verified in accordance with subsection (c). *See* Ark. R. Crim. P. 37.1(d). We have held that a circuit court lacks jurisdiction to consider arguments raised in an unverified Rule 37.1 petition. *See Shaw*, 363 Ark. 156, 211 S.W.3d 506 (citing *Worthem v. State*, 347 Ark. 809, 66 S.W.3d 665 (2002) (per curiam)).

As for appellant's verified December 21, 2009 petition, Rule 37.2(c) provides that, if an appeal was taken of the judgment of conviction, a petition for postconviction relief under this rule must be filed in the circuit court within sixty days of the date the mandate is issued by the appellate court. Ark. R. Crim. P. 37.2(c)(ii). The mandate in appellant's case was issued by this court on April 29, 2008; as such, the deadline for appellant to file a verified petition for

¹We note that the record on appeal contains a third Rule 37.1 petition, which was verified and was filemarked by the Pulaski County Circuit Clerk's office on May 29, 2008. However, because it was not addressed by the circuit court, we cannot address the arguments contained therein on appeal. *See generally Reed v. State*, 2011 Ark. 115 (per curiam) (holding that it is the obligation of an appellant to obtain a ruling from the trial court in order to preserve an issue for appellate review); *see also McCraney v. State*, 2010 Ark. 96, ___ S.W.3d ___ (per curiam); *Howard v. State*, 367 Ark. 18, 238 S.W.3d 24 (2006).

postconviction relief was June 28, 2008. Time limitations imposed in Rule 37.2(c) are jurisdictional in nature, and, if they are not met, a trial court lacks jurisdiction to consider a Rule 37.1 petition. *Eaton v. State*, 2011 Ark. 436 (per curiam) (citing *Sims v. State*, 2011 Ark. 135 (per curiam)); *Trice v. State*, 2011 Ark. 74 (per curiam) (citing *Mills v. State*, 2010 Ark. 390 (per curiam)); *Gardner v. State*, 2010 Ark. 344 (per curiam); *Harris v. State*, 2010 Ark. 314 (per curiam); *Crawford v. State*, 2010 Ark. 313 (per curiam). Here, appellant filed his verified petition nine months after the mandate was issued. As such, the circuit court was without jurisdiction to consider it. *Sims*, 2011 Ark. 135.

Where the circuit court lacks jurisdiction to rule on a petition, the appellate court also lacks jurisdiction. *Eaton*, 2011 Ark. 436. Accordingly, the appeal is dismissed. *See Sims*, 2011 Ark. 135.

Appeal dismissed.