

SUPREME COURT OF ARKANSAS

No. CR 11-1089

TERRELL M. DAVIS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered February 16, 2012

PRO SE MOTION FOR EXTENSION
OF TIME TO FILE BRIEF
[HEMPSTEAD COUNTY CIRCUIT
COURT, CR 2006-135, CR 2006-136, CR
2006-137, CR 2011-127, CR 2011-128,
HON. RANDY WRIGHT, JUDGE]

APPEAL DISMISSED; MOTION
MOOT.

PER CURIAM

On June 27, 2011, judgments were entered reflecting that appellant Terrell M. Davis had entered pleas of guilty to multiple felony offenses in the Hempstead County Circuit Court. An aggregate term of 216 months' imprisonment was imposed for the offenses.

Ninety-five days after the judgments were entered-of-record, appellant filed in the trial court one pro se petition for postconviction relief pursuant to Criminal Procedure Rule 37.1 (2011) that encompassed all the judgments entered June 27, 2011. The petition was denied on the ground that it was not a timely petition under the rule. Appellant has lodged an appeal here from the order. Now before us is a motion filed by appellant for an extension of time to file his brief-in-chief.

As it is clear from the face of the record that the Rule 37.1 petition was not timely filed, we dismiss the appeal. *See Coleman v. State*, 2010 Ark. 490 (per curiam). The motion for extension of time is moot. This court has consistently held that a postconviction appeal will

not be permitted to go forward where it is clear that the appellant could not prevail. *Gardner v. State*, 2010 Ark. 344 (per curiam); *Harris v. State*, 2010 Ark. 314 (per curiam); *Crawford v. State*, 2010 Ark. 313 (per curiam); *Robertson v. State*, 2010 Ark. 300 , ___ S.W.3d ___ (per curiam); *Carter v. State*, 2010 Ark. 231, ___ S.W.3d ___ (per curiam); *Gray v. State*, 2010 Ark. 216 (per curiam); *see Tillman v. State*, 2010 Ark. 103 (per curiam); *Pierce v. State*, 2009 Ark. 606 (per curiam); *Grissom v. State*, 2009 Ark. 557 (per curiam); *see also Pardue v. State*, 338 Ark. 606, 999 S.W.2d 198 (1999) (per curiam); *Seaton v. State*, 324 Ark. 236, 920 S.W.2d 13 (1996) (per curiam).

Arkansas Rule of Criminal Procedure 37.2(c) (2011) provides that a petition under the rule must be filed within ninety days of the date the judgment was entered if the petitioner entered a plea of guilty. Here, appellant filed the petition ninety-five days after the judgments of conviction were entered in the cases. 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. *Gardner*, 2010 Ark. 344; *Harris*, 2010 Ark. 314; *Crawford*, 2010 Ark. 313; *Gray*, 2010 Ark. 216; *see Tillman*, 2010 Ark. 103 (citing *Lauderdale v. State*, 2009 Ark. 624 (per curiam)); *see also Maxwell v. State*, 298 Ark. 329, 767 S.W.2d 303 (1989).

Appeal dismissed; motion moot.