

**SUPREME COURT OF ARKANSAS**

No. CR 12-96

CHARLES ISAAC WILSON, JR.  
APPELLANT

v.

STATE OF ARKANSAS  
APPELLEE**Opinion Delivered** May 10, 2012PRO SE MOTIONS FOR EXTENSION  
OF TIME TO FILE BRIEF AND FOR  
COPY OF RECORD [SEBASTIAN  
COUNTY CIRCUIT COURT, FORT  
SMITH DISTRICT, CR 2009-464, HON.  
JAMES O. COX, JUDGE]APPEAL DISMISSED; MOTIONS  
MOOT.**PER CURIAM**

In 2010, appellant Charles Isaac Wilson, Jr., was found guilty by a jury of delivery of a controlled substance. He was sentenced as a habitual offender to serve a term of 480 months' imprisonment. Imposition of an additional sentence of 240 months was suspended. The Arkansas Court of Appeals affirmed. *Wilson v. State*, 2011 Ark. App. 382. The mandate of the court of appeals issued on June 14, 2011.

On October 21, 2011, 129 days after the mandate issued, appellant filed in the trial court a pro se petition for postconviction relief pursuant to Arkansas Rule of Criminal Procedure 37.1 (2011). The trial court denied the petition, and appellant has lodged an appeal in this court from the order. Appellant now seeks by pro se motions an extension of time to file his brief-in-chief and a copy of the record.

We need not address the merits of the motions because it is clear from the record that appellant could not prevail on appeal if the appeal were permitted to go forward. Accordingly,

the appeal is dismissed, and the motions are moot. An appeal from an order that denied a petition for postconviction relief will not be permitted to proceed where it is clear that the appellant could not prevail. *Carroll v. State*, 2012 Ark. 100 (per curiam); *Justus v. State*, 2012 Ark. 91 (per curiam); *Perry v. State*, 2012 Ark. 98 (per curiam); *Eaton v. State*, 2011 Ark. 432 (per curiam); *Grant v. State*, 2011 Ark. 309 (per curiam); *Lewis v. State*, 2011 Ark. 176 (per curiam); *Kelley v. State*, 2011 Ark. 175 (per curiam); *Morgan v. State*, 2010 Ark. 504 (per curiam); *Goldsmith v. State*, 2010 Ark. 158 (per curiam); *Watkins v. State*, 2010 Ark. 156, \_\_\_ S.W.3d \_\_\_ (per curiam); *Meraz v. State*, 2010 Ark. 121 (per curiam); *Smith v. State*, 367 Ark. 611, 242 S.W.3d 253 (2006) (per curiam).

The petition filed in the trial court was not timely filed. When a judgment is affirmed on appeal, a petitioner under the rule is required, pursuant to Arkansas Rule of Criminal Procedure 37.2(c), to file his or her petition with the clerk of the trial court within sixty days of the date that the mandate was issued following affirmance of the judgment in the case. Appellant did not timely file his petition, and, thus, the petition was subject to dismissal.

Time limitations imposed in Rule 37.2(c) for filing a petition are jurisdictional in nature. *Hendrix v. State*, 2012 Ark. 10 (per curiam); *Eaton*, 2011 Ark. 432. If the time limitations are not met, a trial court lacks jurisdiction to consider a Rule 37.1 petition. *Hendrix*, 2010 Ark. 10; *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). Where the circuit court lacks jurisdiction, the appellate court also lacks jurisdiction. *Hendrix*, 2010 Ark. 10; *Clemons v.*

*State*, 2011 Ark. 345 (per curiam); *Grant*, 2011 Ark. 309; *Daniels v. Hobbs*, 2011 Ark. 249 (per curiam); see also *Clark v. State*, 362 Ark. 545, 210 S.W.3d 59 (2005) (citing *Priest v. Polk*, 322 Ark. 673, 912 S.W.2d 902 (1995)).

Appeal dismissed; motions moot.