

SUPREME COURT OF ARKANSAS

No. CR13-197

CORNELIOUS PAIGE

APPELLANT

v.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered March 28, 2013

PRO SE PETITION FOR WRIT OF
CERTIORARI [FAULKNER
COUNTY CIRCUIT COURT, CR
07-515, HON. DAVID REYNOLDS,
JUDGE]APPEAL DISMISSED; PETITION
MOOT.

PER CURIAM

In 2008, appellant Cornelious Paige was found guilty by a jury of aggravated robbery, three counts of kidnapping, attempted capital murder, theft of property, aggravated assault, felony fleeing, and misdemeanor fleeing. He was sentenced to an aggregate term of 1020 months' imprisonment. The Arkansas Court of Appeals affirmed. *Paige v. State*, 2009 Ark. App. 399 (unpublished).

Appellant subsequently filed in the trial court a timely petition for postconviction relief pursuant to Arkansas Rule of Criminal Procedure 37.1 (2012), seeking to vacate the judgment. The petition was denied, and appellant lodged an appeal in this court from the order. Now before us is appellant's pro se petition for writ of certiorari to complete the record.

As it is clear from the record that appellant could not prevail on appeal, we dismiss the appeal. The petition for writ of certiorari is moot. An appeal from an order that denied a petition for postconviction relief will not be permitted to go forward where it is clear that the

appellant could not prevail. *Watson v. State*, 2012 Ark. 27 (per curiam); *Riddell v. State*, 2012 Ark. 11 (per curiam). In this case, the circuit court correctly found that it did not have jurisdiction to consider appellant's Rule 37.1 petition.

Appellant's petition was not in compliance with the rule in that it was not verified in accordance with Rule 37.1(c). Rule 37.1(c) requires that the petition be accompanied by an affidavit that is sworn before a notary or other officer authorized to administer oaths; in substantially the form noted in that provision; and attesting that the facts stated in the petition are true, correct, and complete. Rule 37.1(d) requires that the circuit clerk reject an unverified petition and that the circuit court or any appellate court must dismiss a petition that fails to comply with Rule 37.1(c). See *Williamson v. State*, 2012 Ark. 170 (per curiam); see also *Stephenson v. State*, 2011 Ark. 506 (per curiam). Appellant's petition was signed only by his attorney. It did not bear appellant's signature and the verification required by the rule. Counsel for a petitioner may not sign and verify the petition; the petitioner must sign the petition, and his or her signature must be verified in accordance with the rule. *Wooten v. State*, 2010 Ark. 467, 370 S.W.3d 475.

The verification requirement for a postconviction-relief petition is of substantive importance to prevent perjury. *Martin v. State*, 2012 Ark. 312 (per curiam); *Williamson*, 2012 Ark. 170; *Tucker v. State*, 2011 Ark. 543 (per curiam). We have held that a circuit court lacks jurisdiction to consider arguments raised in an unverified Rule 37.1 petition. *Martin*, 2012 Ark. 312; *Williamson*, 2012 Ark. 170; *Stephenson*, 2011 Ark. 506. Because appellant's Rule 37.1 petition was not in compliance with Rule 37.1(c), it should not have been accepted for

filing, and it did not act to confer jurisdiction on the trial court to consider the merits of the petition. *Hatton v. State*, 2012 Ark. 286 (per curiam). Where the circuit court lacks jurisdiction, the appellate court also lacks jurisdiction. *Williamson*, 2012 Ark. 170; *Talley v. State*, 2011 Ark. 497 (per curiam); *Gilliland v. State*, 2011 Ark. 480 (per curiam).

Appeal dismissed; petition moot.