

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2001-CP-01836-COA

EDDIE LEE JOHNSON

APPELLANT

v.

STATE OF MISSISSIPPI

APPELLEE

DATE OF TRIAL COURT JUDGMENT: 10/9/2001
TRIAL JUDGE: HON. ALBERT B. SMITH, III
COURT FROM WHICH APPEALED: COAHOMA COUNTY CIRCUIT COURT
ATTORNEY FOR APPELLANT: EDDIE LEE JOHNSON (PRO SE)
ATTORNEY FOR APPELLEE: OFFICE OF THE ATTORNEY GENERAL
BY: JEAN SMITH VAUGHAN
DISTRICT ATTORNEY: LAURENCE Y. MELLEN
NATURE OF THE CASE: CIVIL - POST CONVICTION RELIEF
TRIAL COURT DISPOSITION: MOTION FOR POST-CONVICTION RELIEF
DISMISSED AS UNTIMELY FILED.
DISPOSITION: AFFIRMED - 01/21/2003
MOTION FOR REHEARING FILED:
CERTIORARI FILED:
MANDATE ISSUED:

BEFORE SOUTHWICK, C.J., BRIDGES AND MYERS, J.J.

BRIDGES, J., FOR THE COURT:

¶1. Eddie Lee Johnson pled guilty to possession of a firearm by a convicted felon and burglary. The Circuit Court of Coahoma County sentenced Johnson on December 1, 1997, to serve three years in the custody of the Mississippi Department of Corrections on the firearms charge, and twenty-five years on the burglary charge to run consecutively. Johnson filed a motion for post-conviction relief on October 4, 2001. The court dismissed Johnson's motion as untimely, according to Mississippi Code Annotated Section 99-39-5 (Rev. 2000).

STATEMENT OF THE ISSUE

DID THE COURT PROPERLY DISMISS JOHNSON'S MOTION FOR POST-CONVICTION RELIEF AS UNTIMELY?

ANALYSIS

¶2. The order of the court sentencing Johnson was entered on December 1, 1997. Johnson's motion for post-conviction relief was filed on October 4, 2001. Motions for post-conviction relief are required to be filed within three years of entry of judgment of conviction in the case of a guilty plea. Miss. Code Ann. § 99-39-5 (Rev. 2000). Consequently, Johnson's motion for post-conviction relief was properly dismissed as untimely filed, and we affirm.

¶3. **THE JUDGMENT OF THE CIRCUIT COURT OF COAHOMA COUNTY DISMISSING THE MOTION FOR POST-CONVICTION RELIEF AS UNTIMELY FILED IS AFFIRMED. ALL COSTS OF THIS APPEAL ARE ASSESSED TO COAHOMA COUNTY.**

McMILLIN, C.J., KING AND SOUTHWICK, P.J.J., THOMAS, LEE, IRVING, MYERS, AND CHANDLER, JJ., CONCUR. GRIFFIS, J., NOT PARTICIPATING.