

IN THE UTAH COURT OF APPEALS

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Korte H. Wamsley Jr.,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Petitioner and Appellant,)	
)	Case No. 20090686-CA
v.)	
)	F I L E D
State of Utah,)	(November 13, 2009)
)	
Respondent and Appellee.)	2009 UT App 332

Third District, West Jordan Department, 090416684
The Honorable Robert W. Adkins

Attorneys: Korte H. Wamsley Jr., Mountain Green, Appellant Pro
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Before Judges Orme, Thorne, and McHugh.

PER CURIAM:

Korte H. Wamsley Jr. appeals the trial court's dismissal of his petition for post-conviction relief. Although Wamsley lists several issues, the only issue relevant to this appeal is whether the trial court properly dismissed his petition as time barred.

The trial court summarily dismissed Wamsley's petition as untimely. The trial court may raise a procedural or time bar on its own motion in a post-conviction relief action. See Utah Code Ann. § 78B-9-106(2) (2008). However, when a court does so, it must provide the parties with notice and an opportunity to be heard regarding the matters raised. See id. Here, the record establishes that the trial court dismissed the petition as time barred without providing the required notice and opportunity to be heard. The lack of compliance with the provisions of section 78B-9-106(2) constitutes manifest error.

Accordingly, the trial court's order dismissing Wamsley's petition is reversed and this matter is remanded to the trial

court for further proceedings in compliance with section 78B-9-106(2).

Gregory K. Orme, Judge

William A. Thorne Jr., Judge

Carolyn B. McHugh, Judge