



Rockamore v. State

2001 | Cited 0 times | Supreme Court of Arkansas | November 29, 2001

NOT DESIGNATED FOR PUBLICATION

On January 19, 2001, judgment was entered reflecting that Robert K. Rockamore had pled guilty to commercial burglary and had been sentenced as a habitual offender to a term of 360 months' imprisonment. He subsequently filed in the trial court a timely pro se petition for post-conviction relief pursuant to Criminal Procedure Rule 37 challenging the judgment. Although the petition was denied without prejudice to Rockamore's filing a second petition under the rule, Rockamore appealed to this court from the order.

On October 19, 2001, the appellee filed a motion to dismiss the appeal on the ground that appellant Rockamore had failed to file a brief. On November 2, 2001, appellant filed a motion also asking that the appeal be dismissed "without prejudice so that the appellant may exhaust all remedies at the trial court level." On November 8, 2001, we granted the State's motion by per curiam order.

It may be assumed that appellant's reference in his motion to dismissal "without prejudice" is a statement of his intention to proceed again in the trial court under the rule inasmuch as his original Rule 37 petition was denied without prejudice.

Even if he intended to ask at a later date to reinstate this appeal, however, he has stated no ground to do so. The appeal has been dismissed on the appellee's motion and that action renders appellant's pro se motion to dismiss moot.

Motion moot.

