

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2002-CP-01929-COA

CLOUIS W. WITT A/K/A CLOVIS WITT

APPELLANT

v.

STATE OF MISSISSIPPI

APPELLEE

DATE OF TRIAL COURT JUDGMENT:	5/18/2001
TRIAL JUDGE:	HON. C. E. MORGAN, III
COURT FROM WHICH APPEALED:	MONTGOMERY COUNTY CIRCUIT COURT
ATTORNEY FOR APPELLANT:	CLOUIS W. WITT (PRO SE)
ATTORNEY FOR APPELLEE:	OFFICE OF THE ATTORNEY GENERAL
	BY: JOHN R. HENRY
DISTRICT ATTORNEY:	DOUG EVANS
NATURE OF THE CASE:	CRIMINAL - POST-CONVICTION RELIEF
TRIAL COURT DISPOSITION:	DENIED PETITION
DISPOSITION:	AFFIRMED: 02/03/2004
MOTION FOR REHEARING FILED:	
CERTIORARI FILED:	
MANDATE ISSUED:	

BEFORE SOUTHWICK, P.J., THOMAS AND GRIFFIS, JJ.

GRIFFIS, J., FOR THE COURT:

¶1. Clouis Witt appeals the circuit court's denial of his petition for post-conviction relief. We find no error and affirm.

FACTS

¶2. Clouis Witt was arrested and charged with armed robbery of the Mid-State Loan Company. On April 16, 1996, Witt pled guilty to armed robbery and was sentenced to twenty-five years in the custody of the Mississippi Department of Corrections.

¶3. On April 12, 1999, Witt filed his first petition for post-conviction relief. The circuit court denied the petition. Witt appealed asserting ineffective assistance of counsel. On August 15, 2000, in *Witt v. State*, 781 So. 2d 135 (Miss. Ct. App. 2000), this Court affirmed the circuit court's denial of post-conviction relief. The Mississippi Supreme Court then denied Witt's writ of certiorari.

¶4. On May 4, 2001, Witt filed this his second and successive petition for post-conviction relief. Witt cites newly discovered evidence as the ground for relief. On May 21, 2001, the circuit court denied the petition. On appeal, Witt asserts four assignments of error. Finding this petition is barred, we affirm the circuit court's denial of the petition for post-conviction relief.

ANALYSIS

¶5. On three separate grounds, we conclude that this Court lacks jurisdiction over this appeal. First, Witt failed to timely file his notice of appeal. The circuit court denied the petition on May 21, 2001. Witt filed his notice of appeal on July 2, 2001. Accordingly, we find that Witt's appeal is dismissed as not timely filed pursuant to Rule 4(a) of the Mississippi Rules of Appellate Procedure.

¶6. Second, Witt's first petition for post-conviction relief was rejected. *Witt v. State*, 781 So. 2d 135 (Miss. Ct. App. 2000). According to Mississippi Code Annotated Section 99-39-23(6), Witt's second and successive petition for post-conviction relief is barred.

¶7. Finally, Witt's petition for post-conviction relief, which is considered in this appeal, was filed beyond the expiration of the statute of limitations provided under Mississippi Code Annotated Section 99-39-5(2).

¶8. For these reasons, we affirm the circuit court's denial of the petition for post-conviction relief.

¶9. **THE JUDGMENT OF THE CIRCUIT COURT OF MONTGOMERY COUNTY DENYING POST-CONVICTION RELIEF IS AFFIRMED. COSTS ARE ASSESSED TO MONTGOMERY COUNTY.**

**McMILLIN, C.J., KING AND SOUTHWICK, P.JJ., BRIDGES, THOMAS, LEE,
IRVING, MYERS AND CHANDLER, JJ., CONCUR.**