

**IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI**

**NO. 2007-CP-00367-COA**

**DALE DEWAYNE JONES**

**APPELLANT**

**v.**

**STATE OF MISSISSIPPI**

**APPELLEE**

DATE OF JUDGMENT:	2/2/2007
TRIAL JUDGE:	HON. ANDREW K. HOWORTH
COURT FROM WHICH APPEALED:	MARSHALL COUNTY CIRCUIT COURT
ATTORNEY FOR APPELLANT:	DALE DEWAYNE JONES (PRO SE)
ATTORNEY FOR APPELLEE:	OFFICE OF THE ATTORNEY GENERAL BY: DEIRDRE MCCRORY
NATURE OF THE CASE:	CIVIL - POST-CONVICTION RELIEF
TRIAL COURT DISPOSITION:	MOTION FOR POST-CONVICTION RELIEF DENIED
DISPOSITION:	DISMISSED - 02/05/2008
MOTION FOR REHEARING FILED:	
MANDATE ISSUED:	

**EN BANC**

**CARLTON, J., FOR THE COURT:**

¶1. Dale Dewayne Jones appeals the Marshall County Circuit Court's denial of his motion for post-conviction relief. Since perfecting his appeal, Jones has been released from the custody of the Mississippi Department of Corrections. Therefore, we dismiss his appeal as moot.

**FACTS AND ANALYSIS**

¶2. Dale Dewayne Jones pleaded guilty before the Marshall County Circuit Court on August 18, 2005, to a charge of possession of cocaine. He was sentenced to four years in the custody of the Mississippi Department of Corrections. Three years of his sentence were suspended, and he was ordered to serve the remaining one year in the Intensive Supervision/House Arrest Program.

¶3. Jones was removed from the house arrest program in October 2005 and placed in the Marshall County Correctional Facility in Holly Springs, Mississippi. He filed his motion for post-conviction relief on January 23, 2007, claiming that his Fourteenth Amendment due process rights had been violated because he had not received proper notice that he had been terminated from the program. The circuit court denied his motion on February 12, 2007. Jones filed his appeal on March 20, 2007, again claiming that his Fourteenth Amendment due process rights had been violated.

¶4. On August 8, 2007, Jones was released from the custody of the Mississippi Department of Corrections on a Certificate of Earned Release Supervision. “Post conviction relief may be considered only for individuals convicted under our laws and who are presently in custody.” *Rankins v. State*, 937 So. 2d 45, 45 (¶2) (Miss. Ct. App. 2006) (citing Miss. Code Ann. § 99-39-5 (Supp. 2005)). Because Jones is no longer incarcerated, he is not entitled to post-conviction relief.

**¶5. THE APPEAL FROM THE JUDGMENT OF THE CIRCUIT COURT OF MARSHALL COUNTY IS DISMISSED. ALL COSTS OF THIS APPEAL ARE ASSESSED TO MARSHALL COUNTY.**

**KING, C.J., LEE AND MYERS, P.JJ., IRVING, CHANDLER, GRIFFIS, BARNES AND ISHEE, JJ., CONCUR. ROBERTS, J., NOT PARTICIPATING.**