

**IN THE COURT OF APPEALS
OF THE
STATE OF MISSISSIPPI
NO. 2001-CP-01516-COA**

CHRISTOPHER L. GRAYER

APPELLANT

v.

STATE OF MISSISSIPPI

APPELLEE

DATE OF TRIAL COURT JUDGMENT: 08/28/2001
TRIAL JUDGE: HON. STEPHEN B. SIMPSON
COURT FROM WHICH APPEALED: HARRISON COUNTY CIRCUIT COURT
ATTORNEY FOR APPELLANT: CHRISTOPHER GRAYER
ATTORNEY FOR APPELLEE: OFFICE OF THE ATTORNEY GENERAL
BY: W. GLENN WATTS
DISTRICT ATTORNEY: CONO A. CARANNA II
NATURE OF THE CASE: CIVIL - POST CONVICTION RELIEF
TRIAL COURT DISPOSITION: 08/28/2001: DENIAL OF PCR
DISPOSITION: AFFIRMED - 07/30/2002
MOTION FOR REHEARING FILED:
CERTIORARI FILED:
MANDATE ISSUED: 8/20/2002

BEFORE SOUTHWICK, P.J., BRIDGES, AND BRANTLEY, JJ.

BRIDGES, J., FOR THE COURT:

¶1. Christopher Grayer pled guilty to three counts of transfer of cocaine in the Circuit Court of Harrison County, which entered judgment on August 1, 1997. The court sentenced Grayer to three concurrent sentences of fifteen years, consecutive to a pre-existing probationary sentence for transfer of cocaine. Grayer filed a petition for post-conviction relief (PCR) on July 2, 2001, nearly four years after he pled guilty, alleging an involuntary guilty plea and ineffective assistance of counsel. The circuit court dismissed Grayer's PCR motion as time-barred.

ISSUE

**DID THE CIRCUIT COURT PROPERLY DISMISS GRAYER'S PCR MOTION AS
TIME-BARRLED?**

ANALYSIS

¶2. A motion for post-conviction relief shall be made within three years of entry of judgment. Miss. Code Ann. § 99-39-5 (2) (Rev. 2000). Grayer does not assert any exception to the general Uniform Post-Conviction Collateral Relief Act's three year statute of limitations; nor does he allege a failure of the prison mails as the cause for his delay. Grayer does not even attempt to explain his failure to comply with the statute of limitations for PCR petitions.

¶3. Grayer's PCR motion alleges that he received ineffective assistance of counsel, and that he pled guilty involuntarily. However, Grayer provides no evidence of having entered an involuntary plea outside of his own assertions; nor does Grayer provide any evidence of counsel's malfeasance beyond his brief. This lack of evidence would not be fatally prejudicial to his claim, but for the fact that the record of the guilty plea hearing in this case directly contradicts his claims. *Ford v. State*, 708 So. 2d 73, 75-6 (¶¶ 11-12) (Miss. 1998). Consequently, even if Grayer's claim was not time-barred, it would lack merit, as the court below noted.

¶4. For the foregoing reasons, we affirm the court below.

¶5. THE JUDGMENT OF THE CIRCUIT COURT OF HARRISON COUNTY DISMISSING MOTION FOR POST-CONVICTION RELIEF WITH PREJUDICE IS AFFIRMED. ALL COSTS OF THIS APPEAL ARE ASSESSED TO HARRISON COUNTY.

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