

NO.

BEFORE THE SUPREME COURT
OF THE UNITED STATES

James E. Whitney

Petitioner

v.

State Of Arkansas

Respondents

On Petition For A Writ Of Certiorari
To The Supreme Court Of The
State Of Arkansas Supreme
Court Case # CV-17-831

Appendix A
Opinions Below

James E. Whitney, Pro se
Sui Juris In Propria Persona
163817
P.O. Box 600
Grady, Arkansas 71644-0600

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Whitney v. State

Supreme Court of Arkansas. April 26, 2018 Not Reported in S.W.3d 2018 Ark. 138 2018 WL 1957111 (Approx. 3 pages)

2018 Ark. 138

NOTICE: THIS DECISION WILL NOT APPEAR IN THE SOUTHWESTERN REPORTER.
SEE REVISED SUPREME COURT RULE 5-2 FOR THE PRECEDENTIAL VALUE OF
OPINIONS.

Supreme Court of Arkansas.

James Edward WHITNEY, Appellant

v.

STATE of Arkansas, Appellee

No. CR-17-831

Opinion Delivered April 26, 2018

Rehearing Denied June 7, 2018

PRO SE APPEAL FROM THE WASHINGTON COUNTY CIRCUIT COURT; PRO SE
MOTION FOR LEAVE TO SUBMIT BELATED REPLY BRIEF WITH SUPPLEMENTAL
ADDENDUM, [NO. 72CR-13-912], HONORABLE MARK LINDSAY, JUDGE

Attorneys and Law Firms

James Edward Whitney, pro se appellant.

Leslie Rutledge, Att'y Gen., by: Jacob H. Jones, Ass't Att'y Gen., for appellee.

Opinion

COURTNEY HUDSON GOODSON, Associate Justice

*¹ Appellant James Edward Whitney lodged an appeal in this court from an order denying his petition for writ of coram nobis filed in the trial court. He filed a motion in which he requests permission to file a belated reply brief with a supplemental addendum. Because it is clear from the record on appeal that the trial court correctly determined that it had no authority to consider the petition that Whitney filed, we affirm the denial of relief, and Whitney's motion is moot.

The Arkansas Court of Appeals affirmed the judgment reflecting Whitney's conviction on eighteen counts of possession of child pornography on May 24, 2017. *Whitney v. State*, 2017 Ark. App. 341, 520 S.W.3d 326. Whitney filed his petition for the writ in the trial court on June 16, 2017. The trial court treated the petition as one for writ of error coram nobis, and it found that it did not have authority to consider the petition.

*² An appeal from an order that denied a petition for a postconviction remedy will not be permitted to go forward when it is clear that the petitioner could not prevail. *Whitney v. State*, 2018 Ark. 21, 535 S.W.3d 627. In postconviction proceedings such as this, this court need not address motions such as the one Whitney filed, and those motions are moot when it is clear from the record that the denial of relief was correct because the trial court lacked authority to consider the petition that was before it. *Justus v. State*, 2012 Ark. 91.

The standard of review of an order entered by the trial court on a petition for writ of error coram nobis is whether the trial court abused its discretion in granting or denying the writ. *Griffin v. State*, 2018 Ark. 10, 535 S.W.3d 261. An abuse of discretion occurs when the court acts arbitrarily or groundlessly. *Id.* The trial court cannot entertain a petition for writ of error coram nobis after a judgment has been affirmed on appeal unless this court grants permission. *Carner v. State*, 2018 Ark. 20, 535 S.W.3d 634.

The trial court correctly treated the petition Whitney filed as one for error coram nobis relief. Arkansas Rule of Civil Procedure 60(k) specifically abolished coram vobis and audita querela actions as a procedure for obtaining relief from a judgment. Petitions for the abolished writs of error like coram vobis and audita querela are accordingly to be treated as petitions for coram nobis relief, with the same grounds for relief and procedural rules applicable. *Chestang v. State*, 2015 Ark. 372 (per curiam). Any petition for a writ of error challenging a criminal judgment of conviction in this state is clearly a petition for a

*3 writ of coram nobis as it applies in modern law. *Id.* Such a writ for error is indistinguishable from a writ of error coram nobis. *Id.*

As this court noted in *Leggett v. State*, 231 Ark. 13, 328 S.W.2d 252 (1959), the term "coram nobis" means, literally, "before us ourselves" and "coram vobis" means "before you." 231 Ark. 13, 17 n.5, 328 S.W.2d 252, 255 n.5. The term "writ of error coram nobis" has been recognized in our common law for all motions for new trial in a criminal case filed after the term of court has expired. *Id.* In *Leggett*, this court also recognized that the trial court was not the correct tribunal to entertain jurisdiction of the case when the judgment had been affirmed by this court and that the petitioner must obtain the permission of the Arkansas Supreme Court before applying to the trial court for a writ of error coram nobis. 231 Ark. at 17, 328 S.W.2d at 255.

At the time he filed his petition, **Whitney** had not sought, much less obtained, this court's permission to reinvest jurisdiction in the trial court to file a petition for a writ of error coram nobis or any other similar relief. The record clearly demonstrates that the trial court did not abuse its discretion in declining to consider the petition **Whitney** had filed.

Affirmed; motion moot.

Hart, J., dissents.

Josephine Linker Hart, Justice, Dissenting.

I dissent for the reasons outlined in *Gray v. State*, 2018 Ark. 79, —S.W.3d — (Hart, J., dissenting). The only matter properly before us at this juncture is Mr. **Whitney**'s Motion for Extension of Time to File Belated *4 Reply Brief. This court does not yet have jurisdiction to rule on the merits of Mr. **Whitney**'s case.

All Citations

Not Reported in S.W.3d, 2018 Ark. 138, 2018 WL 1957111

End of
Document

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FORMAL ORDER

BE IT REMEMBERED, THAT A SESSION OF THE SUPREME COURT
BEGUN AND HELD IN THE CITY OF LITTLE ROCK, ON JUNE 7, 2018, AMONGST
OTHERS WERE THE FOLLOWING PROCEEDINGS, TO-WIT:

SUPREME COURT CASE NO. CR-17-831

JAMES EDWARD WHITNEY
APPELLANT

V. APPEAL FROM WASHINGTON COUNTY CIRCUIT COURT - 72CR-13-912

STATE OF ARKANSAS APPELLEE

APPELLANT'S PRO SE PETITION FOR REHEARING IS DENIED.

IN TESTIMONY, THAT THE ABOVE IS A TRUE COPY OF THE ORDER OF SAID SUPREME COURT, RENDERED IN THE CASE HEREIN STATED, I, STACEY PECTOL, CLERK OF SAID SUPREME COURT, HEREUNTO SET MY HAND AND AFFIX THE SEAL OF SAID SUPREME COURT, AT MY OFFICE IN THE CITY OF LITTLE ROCK, THIS 7TH DAY OF JUNE, 2018.

Barry Perot CLERK

BY:

DEPUTY CLERK

ORIGINAL TO CLERK

CC: JAMES EDWARD WHITNEY
JACOB H. JONES, ASSISTANT ATTORNEY GENERAL
HON. MARK LINDSAY, CIRCUIT JUDGE

SUPREME COURT OF ARKANSAS

No. CR-17-831

JAMES EDWARD WHITNEY
APPELLANT

v.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered April 26, 2018

PRO SE APPEAL FROM THE
WASHINGTON COUNTY CIRCUIT
COURT; PRO SE MOTION FOR
LEAVE TO SUBMIT BELATED REPLY
BRIEF WITH SUPPLEMENTAL
ADDENDUM
[NO. 72CR-13-912]

HONORABLE MARK LINDSAY,
JUDGE

AFFIRMED; MOTION MOOT.

COURTNEY HUDSON GOODSON, Associate Justice

2
A

Appellant James Edward Whitney lodged an appeal in this court from an order denying his petition for writ of coram nobis filed in the trial court. He filed a motion in which he requests permission to file a belated reply brief with a supplemental addendum. Because it is clear from the record on appeal that the trial court correctly determined that it had no authority to consider the petition that Whitney filed, we affirm the denial of relief, and Whitney's motion is moot.

The Arkansas Court of Appeals affirmed the judgment reflecting Whitney's conviction on eighteen counts of possession of child pornography on May 24, 2017. *Whitney v. State*, 2017 Ark. App. 341, 520 S.W.3d 326. Whitney filed his petition for the writ in the trial court on June 16, 2017. The trial court treated the petition as one for writ of error coram nobis, and it found that it did not have authority to consider the petition.

An appeal from an order that denied a petition for a postconviction remedy will not be permitted to go forward when it is clear that the petitioner could not prevail. *Whitney v. State*, 2018 Ark. 21, 535 S.W.3d 627. In postconviction proceedings such as this, this court need not address motions such as the one Whitney filed, and those motions are moot when it is clear from the record that the denial of relief was correct because the trial court lacked authority to consider the petition that was before it. *Justus v. State*, 2012 Ark. 91.

The standard of review of an order entered by the trial court on a petition for writ of error coram nobis is whether the trial court abused its discretion in granting or denying the writ. *Griffin v. State*, 2018 Ark. 10, 535 S.W.3d 261. An abuse of discretion occurs when the court acts arbitrarily or groundlessly. *Id.* The trial court cannot entertain a petition for writ of error coram nobis after a judgment has been affirmed on appeal unless this court grants permission. *Carmer v. State*, 2018 Ark. 20, 535 S.W.3d 634.

The trial court correctly treated the petition Whitney filed as one for error coram nobis relief. Arkansas Rule of Civil Procedure 60(k) specifically abolished coram vobis and audita querela actions as a procedure for obtaining relief from a judgment. Petitions for the abolished writs of error like coram vobis and audita querela are accordingly to be treated as petitions for coram nobis relief, with the same grounds for relief and procedural rules applicable. *Chestang v. State*, 2015 Ark. 372 (per curiam). Any petition for a writ of error challenging a criminal judgment of conviction in this state is clearly a petition for a writ of coram nobis as it applies in modern law. *Id.* Such a writ for error is indistinguishable from a writ of error coram nobis. *Id.*

As this court noted in *Leggett v. State*, 231 Ark. 13, 328 S.W.2d 252 (1959), the term "coram nobis" means, literally, "before us ourselves" and "coram vobis" means "before you." 231 Ark. 13, 17 n.5, 328 S.W.2d 252, 255 n.5. The term "writ of error coram nobis" has been recognized in our common law for all motions for new trial in a criminal case filed after the term of court has expired. *Id.* In *Leggett*, this court also recognized that the trial court was not the correct tribunal to entertain jurisdiction of the case when the judgment had been affirmed by this court and that the petitioner must obtain the permission of the Arkansas Supreme Court before applying to the trial court for a writ of error coram nobis. 231 Ark. at 17, 328 S.W.2d at 255.

At the time he filed his petition, Whitney had not sought, much less obtained, this court's permission to reinvest jurisdiction in the trial court to file a petition for a writ of error coram nobis or any other similar relief. The record clearly demonstrates that the trial court did not abuse its discretion in declining to consider the petition Whitney had filed.

Affirmed; motion moot.

HART, J., dissents.

SUPREME COURT OF ARKANSAS

No. CR-17-831

Opinion Delivered: April 26, 2018

JAMES EDWARD WHITNEY

APPELLANT

v.

STATE OF ARKANSAS

APPELLEE

APPEAL FROM THE
WASHINGTON
COUNTY CIRCUIT COURT
[NO. 72CR-2018-912]

HONORABLE MARK LINDSAY,
JUDGE

DISSENTING OPINION.

JOSEPHINE LINKER HART, Associate Justice

I dissent for the reasons outlined in *Gray v. State*, 2018 Ark. 79, ___ S.W.3d ___ (Hart, J., dissenting). The only matter properly before us at this juncture is Mr. Whitney's Motion for Extension of Time to File Belated Reply Brief. This court does not yet have jurisdiction to rule on the merits of Mr. Whitney's case.

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A

SUPREME COURT OF ARKANSAS

No. CV-17-693

JAMES EDWARD WHITNEY
APPELLANT

v.

ANTONIO GUTERRES, SECRETARY
GENERAL, UNITED NATIONS, ET AL.

APPELLEES

Opinion Delivered April 26, 2018

PRO SE PETITION FOR
EXTENSION OF TIME TO FILE
APPELLANT'S BRIEF; PRO SE
PETITION FOR LEAVE TO
PROCEED WITH EXCEPTION TO
RULE 4-7 OF THE RULES OF THE
SUPREME COURT [LINCOLN
COUNTY CIRCUIT COURT, NO.
40CV-17-44]

APPEAL DISMISSED: PETITIONS
MOOT.

JOHN DAN KEMP, Chief Justice

Appellant James Edward Whitney appeals from the denial of a pro se petition to proceed in forma pauperis and the denial of a request to file an affidavit of sovereignty. Pending before this court is Whitney's petition for an extension of time to file his appellate brief. Also pending is Whitney's subsequent pro se petition for leave to proceed with exception to Rule 4-7 of the Rules of the Supreme Court, wherein he alleges that the Lincoln County circuit clerk has refused to provide him with a file-marked copy of the proceedings below, preventing him from filing his brief in compliance with this court's rules.

An appeal from an order that denied a petition for postconviction relief, including civil postconviction remedies, will not be permitted to go forward when it is clear that the

appellant could not prevail. *Brown v. State*, 2017 Ark. 232, 522 S.W.3d 791; *Justus v. State*, 2012 Ark. 91. This court has treated civil proceedings such as declaratory-judgment actions as applications for postconviction relief in those instances in which a prisoner seeks relief from the conditions of his or her incarceration. *Neely v. McCastlain*, 2009 Ark. 189, 306 S.W.3d 424.

The record demonstrates that Whitney filed in the circuit court a petition to proceed in forma pauperis alleging that he was being illegally detained, and he sought indigent status for the purpose of filing an “affidavit of sovereignty” declaring that he is not a citizen of the United States or subject to its laws. Thus, Whitney’s affidavit of sovereignty sought relief from the conditions of his incarceration; it is, therefore, treated as an application for postconviction relief. *Neely*, 2009 Ark. 189, 306 S.W.3d 424. Because it is clear that Whitney cannot prevail in his appeal from the circuit court’s order denying both his petition to proceed in forma pauperis as well as his request to file an “affidavit of sovereignty,” this appeal is dismissed, which renders Whitney’s petition for an extension of time to file his brief and his petition for leave to proceed with exception to Rule 4-7 moot.

The right to proceed in forma pauperis is governed by Arkansas Rule of Civil Procedure 72 (2016). Rule 72(c) conditions the right to proceed in forma pauperis in civil matters upon, among other things, the court’s satisfaction that the alleged facts indicate a colorable cause of action. *Penn v. Gallagher*, 2017 Ark. 283. A colorable cause of action is a claim that is legitimate and may reasonably be asserted given the facts presented and the current law or a reasonable and logical extension or modification of it. *Id.*

In his in forma pauperis petition, Whitney named international and federal officials as well as officials of Arkansas and Michigan.¹ Whitney sought to file, without payment of fees, an affidavit of sovereignty that declared, among other things, that citizenship has never been conferred on him by either the United States government or the state governments of Michigan and Arkansas.² Whitney further asserted in his affidavit of sovereignty that he is subject only “onto the kingdom of YHWH.” Whitney certified that the affidavit had been mailed to the named respondents. The purpose of the affidavit was to establish that Whitney is not subject to federal and state laws and is therefore being illegally detained as “[he] is neither to bend to or conform with their ways or practices . . . [but rather] operate[s] as a vessel, ambassador for the expression of the government of the Kingdom of YHWH.” Whitney’s affidavit declaring himself outside the reach of the laws of this state is wholly without merit, as the State of Arkansas has the authority to enforce its laws with regard to

¹ In addition to naming Antonio Guterres, Secretary General of the United Nations, Whitney named as respondents, Donald Trump, President of the United States; Jeff Sessions, United States Attorney General; Asa Hutchinson, Governor of Arkansas; Leslie Rutledge, Arkansas Attorney General; Rick Snyder, Governor of Michigan; and Bill Schuette, Michigan Attorney General.

² Whitney’s citizenship status was apparently revealed to him in a letter he received from an official with the State of Michigan in response to a Freedom of Information Act (FOIA) request made by Whitney. In the letter, Whitney was informed that he is not a “person” as defined by Michigan’s FOIA because he is incarcerated. Whitney reasoned that since the State of Michigan (where he was born) had declared that he is not a person and because citizenship cannot be constitutionally eliminated, it follows that citizenship was never conferred on him in the first place. Arkansas similarly denied a FOIA request from Whitney, and he extrapolated from this denial that Arkansas had also failed to confer citizenship.

conduct that occurs within its territorial borders. See *State v. Alexander*, 222 Ark. 376, 259 S.W.2d 677 (1953); *Goodman v. State*, 153 Ark. 560, 240 S.W. 735 (1922).

The circuit court denied Whitney's in forma pauperis petition and denied his request to file the affidavit of sovereignty, concluding that Whitney had not stated a colorable cause of action and, indeed, had not "presented a complaint or other document, even if liberally interpreted, that portrays a civil action in compliance with the Arkansas Rules of Civil Procedure." The circuit court further concluded that there is no statutory authority that mandates that a circuit clerk file and maintain an affidavit declaring sovereignty without a related civil action. Our standard of review of a decision to grant or deny a petition to proceed in forma pauperis is abuse of discretion, and the circuit court's factual findings in support of its exercise of discretion will not be reversed unless clearly erroneous. *Penn*, 2017 Ark. 283. Likewise, this court does not reverse a denial of postconviction relief unless the circuit court's findings are clearly erroneous. *Sandrelli v. State*, 2016 Ark. 103, 485 S.W.3d 692. Based on a review of the record, the circuit court did not clearly err when it concluded that Whitney's affidavit of sovereignty did not state a colorable cause of action that would entitle him to proceed in forma pauperis and when it denied Whitney's request to file a meritless affidavit of sovereignty.

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Appeal dismissed; petitions moot.

HART, J., dissents.

SUPREME COURT OF ARKANSAS

No. CV-17-693

JAMES EDWARD WHITNEY

APPELLANT

v.

ANTONIO GUTERRES,
SECRETARY GENERAL, UNITED
NATIONS, ET AL.

APPELLEES

Opinion Delivered: April 26, 2018

APPEAL FROM THE LINCOLN
COUNTY CIRCUIT COURT
[NO. 40CV-17-44]

HONORABLE JODI RAINES
DENNIS, JUDGE

DISSENTING OPINION.

JOSEPHINE LINKER HART, Associate Justice

I dissent for the reasons outlined in *Gray v. State*, 2018 Ark. 79, ___ S.W.3d ___ (Hart, J., dissenting). The only matter properly before us at this juncture is Mr. Whitney's Petition for Extension of Time to File Petitioner's Brief. This court does not yet have jurisdiction to rule on the merits of Mr. Whitney's substantive petition.

A-10

SUPREME COURT OF ARKANSAS

No. CR-17-919

JAMES EDWARD WHITNEY
PETITIONER

v.

STATE OF ARKANSAS
RESPONDENT

Opinion Delivered February 15, 2018

PRO SE PETITION FOR REVIEW
EN BANC OF THE CLERK'S
DECISION
[WASHINGTON COUNTY
CIRCUIT COURT, NO. 72CR-13-
912]

HONORABLE MARK LINDSAY,
JUDGE

PETITION TREATED AS MOTION
FOR RULE ON CLERK AND
DISMISSED.

COURTNEY HUDSON GOODSON, Associate Justice

Petitioner James Edward Whitney filed in this court a pro se “petition for review en banc of the clerks [sic] decision” in which he requests permission to proceed with an appeal of an order dismissing his pro se petition under Arkansas Rule of Criminal Procedure 37.1 (2017). We need not consider Whitney’s proposed bases for cause to allow the appeal to go forward because it is clear that the appeal cannot succeed. We therefore treat the petition as a motion for rule on clerk, and we dismiss the motion.

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A Washington County jury convicted Whitney on eighteen counts of possession of child pornography, and he appealed. On May 24, 2017, the Arkansas Court of Appeals affirmed the judgment. *Whitney v. State*, 2017 Ark. App. 341, 520 S.W.3d 326. On the same day that the decision on direct appeal was handed down, but prior to issuance of the

remedy will not be permitted to go forward where it is clear that the petitioner could not prevail. *Justus v. State*, 2012 Ark. 91.

Rule 37.2 provides that no proceeding under Rule 37 shall be entertained while the direct appeal of a judgment is pending, and a Rule 37.1 petition filed after the judgment is affirmed but before the mandate is issued, as Whitney's petition was, is to be treated as filed on the day after the mandate was issued. Ark. R. Crim. P. 37.2(a) & (c)(ii) (2017). The trial court lacked authority to act on the merits of the petition until the mandate issued. *Morton v. State*, 208 Ark. 492, 187 S.W.2d 335 (1945). When the court acted, it could do no more with respect to a Rule 37 petition than examine it to see if it had the authority to act on it. *Maxwell v. State*, 298 Ark. 329, 767 S.W.2d 303 (1989).

The trial court addressed the merits of the Rule 37.1 petition, and it also determined that the petition did not include a verified affidavit as required by Rule 37.1(c). To the extent that the trial court addressed the merits of the petition, the order was premature, and this court can not address the trial court's rulings. Ark. R. Crim. P. 37.1(d); *see State v. Richardson*, 2010 Ark. 207 (dismissing appeal when the order appealed was a nullity and there was therefore no appealable order).

A-12

As the record demonstrates, the trial court correctly found that the petition filed did not have the necessary affidavit under Rule 37.1(c). Without the affidavit, neither the trial court nor this court has the authority to reach the merits of the Rule 37.1 petition. *See Bradley v. State*, 2015 Ark. 144, 459 S.W.3d 302 (holding that the appellate court must

SUPREME COURT OF ARKANSAS

No. CR-17-919

JAMES EDWARD WHITNEY

PETITIONER

v.

STATE OF ARKANSAS

RESPONDENT

Opinion Delivered February 15, 2018

PRO SE PETITION FOR REVIEW
EN BANC OF THE CLERK'S
DECISION [WASHINGTON
COUNTY CIRCUIT COURT NO.
72CR-13-912]

DISSENTING OPINION.

JOSEPHINE LINKER HART, Justice

However inartfully styled, all that is before this court is Mr. Whitney's motion for rule on clerk. *See Marshall v. State*; 2017 Ark. 208, 521 S.W.3d 456. As the majority notes, Mr. Whitney's notice of appeal was timely filed, but his transcript was tendered some 26 days late. *See Ark. R. Crim. P.* 4(b). Accordingly, the only issue before this court is whether Mr. Whitney has shown "good cause" for failing to file his record within the time specified by Rule 4(b). Because Mr. Whitney has not yet perfected his appeal, we have no jurisdiction to consider anything else.

A-13

It is totally disingenuous for the majority to dispose of this case on the merits. Whether or not Mr. Whitney has raised a meritorious ground for Rule 37 relief relies on information that is contained in the transcript that the clerk of this court has not allowed Mr. Whitney to file!

I respectfully dissent.

THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS
SIXTH DIVISION

STATE OF ARKANSAS

vs.

CASE NO. 72 CR 2013-912-6

JAMES E. WHITNEY

PLAINTIFF/RESPONDENT

DEFENDANT/PETITIONER

ORDER

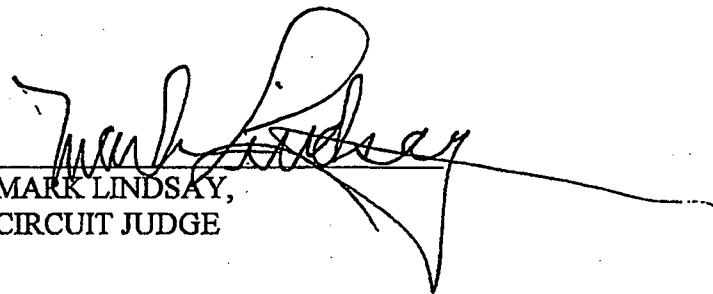
Now on this 10th day of July, 2017, comes on for hearing the Petition for Writ of Coram Nobis filed herein by the Defendant on June 16, 2017, and from the case file, record, and other things and matters before the Court, the Court finds as follows:

1. That James Edward Whitney admits in paragraph 6 of his Petition that he appealed his case, and that the Arkansas Court of Appeals affirmed his conviction by Opinion issued May 24, 2017 (No. CR-16-964). That as a matter of law, because he appealed his conviction, the Circuit Court has no jurisdiction to hear a Petition for Writ of Coram Nobis.

IT IS THEREFORE, CONSIDERED, ORDERED AND ADJUDGED, that the Petition for Writ of Coram Nobis filed herein by the Defendant should be, and it hereby is, denied for want or jurisdiction.

IT IS SO ORDERED.

MARK LINDSAY,
CIRCUIT JUDGE



Copy via email to:
Matt Durrett
David Hogue

Copy via email to:
James E. Whitney ADC # 163817
Arkansas Department of Correction
Varner Unit
Post Office Box 600
Grady, AR 71644-0600

2017 JUL 10 PM
WASHINGTON CIRCUIT COURT
K. SYLVESTER, CLERK
FILED FOR RECORD 1-20

A-14

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SENTENCING ORDER

IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS,

4TH JUDICIAL DISTRICT 6TH DIVISION

On May 12, 2016 the Defendant appeared before the Court, was advised of the nature of the charge(s), of Constitutional and legal rights, of the effect of a guilty plea upon those rights, and of the right to make a statement before sentencing.

Offender	Defendant <u>Whitney, James Edward</u> [Last, First, MI]							DOB <u>11/27/1968</u>	Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	Total Number of Counts <u>18</u>
	SID #	3	3	8	6	7	9	3	Race & Ethnicity <input checked="" type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Unknown <input type="checkbox"/> Other <input type="checkbox"/> Hispanic	
Court Info	Supervision Status at Time of Offense <u>None</u>									
	Judge <u>Mark Lindsay</u>					File Stamp 				
Legal Statement	Prosecuting Attorney/Deputy <u>Kevin B. Metcalf</u>									
	Defendant's Attorney <u>David Hogue</u>					<input type="checkbox"/> Private <input checked="" type="checkbox"/> Public Defender <input type="checkbox"/> Pro Se <input type="checkbox"/> Appointed				
Offense #1	Change of Venue <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, from:									
	<input type="checkbox"/> Pursuant to A.C.A. <input type="checkbox"/> §§16-93-301 et seq., or <input type="checkbox"/> §§ this Court, without making a finding of guilt or entering a judgment of guilt and with the consent of the Defendant defers further proceedings and places the Defendant on probation.									
<p>There being no legal cause shown by the Defendant, as requested, why judgment should not be pronounced, a judgment: A-15</p> <p>is hereby entered against the Defendant on each charge enumerated, fines levied, and court costs assessed. Defendant was advised of the conditions of the sentence and/or placement on probation and understands the consequences of violating those conditions. The Court retains jurisdiction during the period of probation/suspension and may change or set aside the conditions of probation/suspension for violations or failure to satisfy Department of Community Correction (D.C.C) rules and regulations.</p> <p><input checked="" type="checkbox"/> of conviction is hereby entered against the Defendant on each charge enumerated, fines levied, and court costs assessed. The Defendant is sentenced to the Arkansas Department of Correction (A.D.C.) for the term specified on each offense shown below.</p>										
Defendant made a voluntary, knowing, and intelligent waiver of the right to counsel. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No										
A.C.A. # of Offense/ Name of Offense+ <u>5-27-602/Possession of Child Pornography</u>							Case # <u>72-CR-13-912-6</u>			
A.C.A. # of Original Charged Offense				ATN WSH 005473140			Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted			
				Appeal from District Court <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			Probation/SIS Revocation+ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Offense Date <u>08/02/2012</u>			Offense is <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misd. <input type="checkbox"/> Viol.			Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input checked="" type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U				
Number of Counts: <u>1</u>	Criminal History Score <u>3</u>		Seriousness Level <u>4</u>			Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense				
Presumptive Sentence <input checked="" type="checkbox"/> Prison Sentence of <u>54</u> months <input type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction										
Defendant Sentence* (see Page 2)				If probation or SIS accompanied by period of confinement, state time: <u>days or months</u>						
Imposed <input checked="" type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail <u>360</u> months				Sentence was enhanced <u>months</u> , pursuant to <u>A.C.A. §§</u> 2016 01775						
Probation <u>months</u>				Enhancement(s) to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.						
SIS <u>months</u>				Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <u>(a) (b) (c) (d)</u>						
Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death										
Victim Info# (See page 2) <input checked="" type="checkbox"/> N/A Age <u></u> [Multiple Victims <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No]				Sex <input type="checkbox"/> Male <input checked="" type="checkbox"/> Female			Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic			
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.				Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., or <input type="checkbox"/> other §§ <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input checked="" type="checkbox"/> was found guilty at a jury trial & sentenced by <input checked="" type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.						
Sentence is a Departure <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			Sentence Departure is <input type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence: <u>306</u>							
Departure Reason (See page 2 for a list of reasons)										
Aggravating # <u>14</u> or Mitigating # <u></u> . For Agg. #16 or Mit. #10, or if departing from guidelines, please explain: _____										
Sentence will run: <input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # <u>all</u> or Case # <u></u>										

Case # 72-CR-13-912-6

A.C.A. # of Offense/ Name of Offense+ <u>5-27-602/Possession of Child Pornography</u>			Case # <u>72-CR-13-912-6</u>	
A.C.A. # of Original Charged Offense		ATN/WSH005473140	Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted	
		Appeal from District Court <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Probation/SIS Revocation+ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Offense Date <u>08/02/2012</u>		Offense is <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misd. <input type="checkbox"/> Viol.	Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input checked="" type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U	
Number of Counts: <u>1</u>	Criminal History Score <u>3</u>	Seriousness Level <u>4</u>	Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense	
Presumptive Sentence <input checked="" type="checkbox"/> Prison Sentence of <u>54</u> months		<input type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction		
Defendant Sentence* (see Page 2) Imposed <input checked="" type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail <u>360</u> months		If probation or SIS accompanied by period of confinement, state time: <u>days or months</u>		
Probation <u>months</u>		Sentence was enhanced <u>months</u> , pursuant to		
SIS <u>months</u>		A.C.A. §§		
Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death		Enhancement(s) to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.		
Victim Info# (See page 2) <input type="checkbox"/> N/A [Multiple Victims <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No]		Age	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic

Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.		Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., or <input type="checkbox"/> other §§ <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input checked="" type="checkbox"/> was found guilty at a jury trial & sentenced by <input checked="" type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.
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Sentence is a Departure <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Sentence Departure is <input type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence: <u>306</u>
------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Departure Reason (See page 2 for a list of reasons) Aggravating # <u>14</u> or Mitigating # <u> </u> . For Agg. #16 or Mit. #10, or if departing from guidelines, please explain: _____		Sentence will run: <input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # <u>all</u> or Case # _____
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A.C.A. # of Offense/ Name of Offense+ <u>5-27-602/Possession of Child Pornography</u>			Case # <u>72-CR-13-912-6</u>
A.C.A. # of Original Charged Offense		ATN/WSH005473140	
		Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted	
Appeal from District Court <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Probation/SIS Revocation+ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Offense Date <u>08/02/2012</u>		Offense is <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misd. <input type="checkbox"/> Viol.	
Number of Counts: <u>1</u>	Criminal History Score <u>3</u>	Seriousness Level <u>4</u>	Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense

Presumptive Sentence <input checked="" type="checkbox"/> Prison Sentence of <u>54</u> months		<input type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction	
Defendant Sentence* (see Page 2) Imposed <input checked="" type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail <u>360</u> months		If probation or SIS accompanied by period of confinement, state time: <u>days or months</u>	
Probation <u>months</u>		Sentence was enhanced <u>months</u> , pursuant to	
SIS <u>months</u>		A.C.A. §§	
Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death		Enhancement(s) to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.	
Victim Info# (See page 2) <input type="checkbox"/> N/A [Multiple Victims <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No]		Age	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female
Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic		Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., or <input type="checkbox"/> other §§ <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input checked="" type="checkbox"/> was found guilty at a jury trial & sentenced by <input checked="" type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.	

Sentence is a Departure <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Sentence Departure is <input type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence: <u>306</u>
------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Departure Reason (See page 2 for a list of reasons) Aggravating # <u>14</u> or Mitigating # <u> </u> . For Agg. #16 or Mit. #10, or if departing from guidelines, please explain: _____		Sentence will run: <input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # <u>all</u> or Case # _____
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2A

Case # 72-CR-13-912-6

A.C.A. # of Offense/ Name of Offense		5-27-602/Possession of Child Pornography													
A.C.A. # of Original Charged Offense		ATN	W	S	H	0	0	5	4	7	3	1	4	0	Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted
Offense Date 08/02/2012		Appeal from District Court <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No										Probation/SIS Revocation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Criminal History Score	Seriousness Level		Offense is <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misd.										Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input checked="" type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U		
Presumptive Sentence		<input checked="" type="checkbox"/> Prison Sentence of <u>54</u> months <input type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction													
Number of Counts 1		Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense													
Defendant Sentence* (See page 2) Imposed <input checked="" type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail <u>360</u> months		If probation accompanied by period of confinement, state time: <u> </u> days or <u> </u> months.													
Probation <u> </u> months SIS <u> </u> months Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death		Sentence was enhanced <u> </u> months, pursuant to A.C.A. § <u> </u> Enhancement is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.													
Victim Info# (See page 2) <input checked="" type="checkbox"/> N/A [Multiple Victims <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No]		Age	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female		Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic										
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.		Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., <input type="checkbox"/> §§5-64-413 et seq., or <input type="checkbox"/> other <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input checked="" type="checkbox"/> was found guilty at a jury trial & sentenced by <input checked="" type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.													
Sentence is a Departure <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Sentence Departure is <input checked="" type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence: <u>306</u>													
Departure Reason (See page 2 for a list of reasons)		Aggravating # <u>14</u> or Mitigating # <u> </u> . For Agg. #16 or Mit. #10, or if departing from guidelines, please explain:													
Sentence will run:		<input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # <u>all</u> or Case # <u> </u>													
A.C.A. # of Offense/ Name of Offense		5-27-602/Possession of Child Pornography										Case # <u>72-CR-13-912-6</u>			
A.C.A. # of Original Charged Offense		ATN	W	S	H	0	0	5	4	7	3	1	4	0	Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted
Offense Date 08/02/2012		Appeal from District Court <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No										Probation/SIS Revocation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Criminal History Score	Seriousness Level		Offense is <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misd.										Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input checked="" type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U		
Presumptive Sentence		<input checked="" type="checkbox"/> Prison Sentence of <u>54</u> months <input type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction													
Number of Counts 1		Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense													
Defendant Sentence* (See page 2) Imposed <input checked="" type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail <u>360</u> months		If probation accompanied by period of confinement, state time: <u> </u> days or <u> </u> months.													
Probation <u> </u> months SIS <u> </u> months Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death		Sentence was enhanced <u> </u> months, pursuant to A.C.A. § <u> </u> Enhancement is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.													
Victim Info# (See page 2) <input type="checkbox"/> N/A [Multiple Victims <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No]		Age	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female		Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic										
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.		Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., <input type="checkbox"/> §§5-64-413 et seq., or <input type="checkbox"/> other <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input checked="" type="checkbox"/> was found guilty at a jury trial & sentenced by <input checked="" type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.													
Sentence is a Departure <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Sentence Departure is <input checked="" type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence: <u>306</u>													
Departure Reason (See page 2 for a list of reasons)		Aggravating # <u>14</u> or Mitigating # <u> </u> . For Agg. #16 or Mit. #10, or if departing from guidelines, please explain:													
Sentence will run:		<input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # <u>all</u> or Case # <u> </u>													

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A.C.A. # of Offense/ Name of Offense <u>5-27-602/Possession of Child Pornography</u>										Case # <u>72-CR-13-912-6</u>								
A.C.A. # of Original Charged Offense			ATN	W	S	H	0	0	5	4	7	3	1	4	0		Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted	
Offense Date <u>08/02/2012</u>			Appeal from District Court <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No										Probation/SIS Revocation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
Criminal History Score <u>3</u>		Seriousness Level <u>4</u>			Offense is <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misd.			Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input checked="" type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U										
Presumptive Sentence		<input checked="" type="checkbox"/> Prison Sentence of <u>54</u> months			<input type="checkbox"/> Community Corrections Center			<input type="checkbox"/> Alternative Sanction										
Number of Counts 1		Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense																
Defendant Sentence* (See page 2) Imposed <input checked="" type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail <u>360</u> months			If probation accompanied by period of confinement, state time: _____ days or _____ months.															
Probation _____ months			Sentence was enhanced _____ months, pursuant to A.C.A. § _____. Enhancement is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.															
SIS _____ months			Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)															
Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death																		
Victim Info# (See page 2) <input checked="" type="checkbox"/> N/A [Multiple Victims <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No]			Age		Sex <input type="checkbox"/> Male <input type="checkbox"/> Female		Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic											
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.			Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., <input type="checkbox"/> §§5-64-413 et seq., or <input type="checkbox"/> other _____. <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input checked="" type="checkbox"/> was found guilty at a jury trial & sentenced by <input checked="" type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.															
Sentence is a Departure <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Sentence Departure is <input checked="" type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence: <u>306</u>																
Departure Reason (See page 2 for a list of reasons)		Aggravating # <u>14</u> or Mitigating # _____ For Agg. #16 or Mit. #10, or if departing from guidelines, please explain:																
Sentence will run: <input checked="" type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # <u>all</u> or Case # _____																		
A.C.A. # of Offense/ Name of Offense <u>5-27-602/Possession of Child Pornography</u>										Case # <u>72-CR-13-912-6</u>								
A.C.A. # of Original Charged Offense			ATN	W	S	H	0	0	5	4	7	3	1	4	0		Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted	
Offense Date <u>08/02/2012</u>			Appeal from District Court <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No										Probation/SIS Revocation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
Criminal History Score <u>3</u>		Seriousness Level <u>4</u>			Offense is <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misd.			Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input checked="" type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U										
Presumptive Sentence		<input checked="" type="checkbox"/> Prison Sentence of <u>54</u> months			<input type="checkbox"/> Community Corrections Center			<input type="checkbox"/> Alternative Sanction										
Number of Counts 1		Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense																
Defendant Sentence* (See page 2) Imposed <input checked="" type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail <u>360</u> months			If probation accompanied by period of confinement, state time: _____ days or _____ months.															
Probation _____ months			Sentence was enhanced _____ months, pursuant to A.C.A. § _____. Enhancement is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.															
SIS _____ months			Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)															
Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death																		
Victim Info# (See page 2) <input type="checkbox"/> N/A [Multiple Victims <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No]			Age		Sex <input type="checkbox"/> Male <input type="checkbox"/> Female		Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic											
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.			Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., <input type="checkbox"/> §§5-64-413 et seq., or <input type="checkbox"/> other _____. <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input checked="" type="checkbox"/> was found guilty at a jury trial & sentenced by <input checked="" type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.															
Sentence is a Departure <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Sentence Departure is <input checked="" type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence: <u>306</u>																
Departure Reason (See page 2 for a list of reasons)		Aggravating # <u>14</u> or Mitigating # _____ For Agg. #16 or Mit. #10, or if departing from guidelines, please explain:																
Sentence will run: <input checked="" type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # <u>all</u> or Case # _____																		

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A.C.A. # of Offense/ Name of Offense		5-27-602/Possession of Child Pornography										Case # 72-CR-13-912-6				
A.C.A. # of Original Charged Offense		ATN	W	S	H	0	0	5	4	7	3	1	4	0	Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted	
Offense Date 08/02/2012		Appeal from District Court <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No										Probation/SIS Revocation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
Criminal History Score	3	Seriousness Level		4			Offense is <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misd.			Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input checked="" type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U						
Presumptive Sentence		<input checked="" type="checkbox"/> Prison Sentence of 54		months			<input type="checkbox"/> Community Corrections Center			<input type="checkbox"/> Alternative Sanction						
Number of Counts 1		Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense														
Defendant Sentence* (See page 2) Imposed <input checked="" type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail 360 months		If probation accompanied by period of confinement, state time: _____ days or _____ months.														
Probation _____ months		Sentence was enhanced _____ months, pursuant to A.C.A. § _____. Enhancement is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.														
SIS _____ months		Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)														
Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death																
Victim Info# (See page 2) <input checked="" type="checkbox"/> N/A [Multiple Victims <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No]		Age	Sex <input type="checkbox"/> Male			Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Female <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic										
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.		Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., <input type="checkbox"/> §§5-64-413 et seq., or <input type="checkbox"/> other _____ <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input checked="" type="checkbox"/> was found guilty at a jury trial & sentenced by <input checked="" type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.														
Sentence is a Departure <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Sentence Departure is <input checked="" type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence: 306														
Departure Reason (See page 2 for a list of reasons)		Aggravating # 14 or Mitigating # _____ For Agg. #16 or Mit. #10, or if departing from guidelines, please explain:														
Sentence will run:		<input checked="" type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # all or Case #														
A.C.A. # of Offense/ Name of Offense		5-27-602/Possession of Child Pornography										Case # 72-CR-13-912-6				
A.C.A. # of Original Charged Offense		ATN	W	S	H	0	0	5	4	7	3	1	4	0	Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted	
Offense Date 08/02/2012		Appeal from District Court <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No										Probation/SIS Revocation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
Criminal History Score	3	Seriousness Level		4			Offense is <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misd.			Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input checked="" type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U						
Presumptive Sentence		<input checked="" type="checkbox"/> Prison Sentence of 54		months			<input type="checkbox"/> Community Corrections Center			<input type="checkbox"/> Alternative Sanction						
Number of Counts 1		Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense														
Defendant Sentence* (See page 2) Imposed <input checked="" type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail 360 months		If probation accompanied by period of confinement, state time: _____ days or _____ months.														
Probation _____ months		Sentence was enhanced _____ months, pursuant to A.C.A. § _____. Enhancement is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.														
SIS _____ months		Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)														
Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death																
Victim Info# (See page 2) <input type="checkbox"/> N/A [Multiple Victims <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No]		Age	Sex <input type="checkbox"/> Male			Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Female <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic										
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.		Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., <input type="checkbox"/> §§5-64-413 et seq., or <input type="checkbox"/> other _____ <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input checked="" type="checkbox"/> was found guilty at a jury trial & sentenced by <input checked="" type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.														
Sentence is a Departure <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Sentence Departure is <input checked="" type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence: 306														
Departure Reason (See page 2 for a list of reasons)		Aggravating # 14 or Mitigating # _____ For Agg. #16 or Mit. #10, or if departing from guidelines, please explain:														
Sentence will run:		<input checked="" type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # all or Case #														

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Defendant's Full Name: Whitney, James Edward

Offense #: 10	A.C.A. # of Offense/ Name of Offense+ 5-27-602 / Possession of Child Pornography					Case # 72 CR-13-912-6	
	A.C.A. # of Original Charged Offense		ATN WSH005473140		Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted		
			Appeal from District Court		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Probation/SIS Revocation+ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
	Offense Date August 2, 2012		Offense is <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misd. <input type="checkbox"/> Viol.		Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input checked="" type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U		
	Number of Counts: 1	Criminal History Score 3	Seriousness Level 4		Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense		
	Presumptive Sentence <input checked="" type="checkbox"/> Prison Sentence of 54 months		<input checked="" type="checkbox"/> Community Corrections Center		<input type="checkbox"/> Alternative Sanction		
	Defendant Sentence* (see Page 2) Imposed <input checked="" type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail 360 months		If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months.				
	Probation _____ months		Sentence was enhanced _____ months, pursuant to				
	SIS _____ months		A.C.A. §§ _____				
	Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death		Enhancement(s) is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.				
Victim Info# (See page 2) <input type="checkbox"/> N/A [Multiple Victims <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No]		Age	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic			
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.		Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., or <input type="checkbox"/> other §§ _____ <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input checked="" type="checkbox"/> was found guilty at a jury trial & sentenced by <input type="checkbox"/> court <input checked="" type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.					
Sentence is a Departure <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Sentence Departure is <input checked="" type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence: 306 months above					

Departure Reason (See page 2 for a list of reasons) Aggravating # 14 or Mitigating # _____ For Agg. #16 or Mit. #10, or if departing from guidelines, please explain: _____					Sentence will run: <input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # 1 to 9 and 11 to 18 or Case # _____	
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Offense #: 11	A.C.A. # of Offense/ Name of Offense+ 5-27-602 / Possession of Child Pornography					Case # 72 CR-13-912-6	
	A.C.A. # of Original Charged Offense		ATN WSH005473140		Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted		
			Appeal from District Court		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Probation/SIS Revocation+ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
	Offense Date August 2, 2012		Offense is <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misd. <input type="checkbox"/> Viol.		Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input checked="" type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U		
	Number of Counts: 1	Criminal History Score 3	Seriousness Level 4		Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense		
	Presumptive Sentence <input checked="" type="checkbox"/> Prison Sentence of 54 months		<input checked="" type="checkbox"/> Community Corrections Center		<input type="checkbox"/> Alternative Sanction		
	Defendant Sentence* (see Page 2) Imposed <input checked="" type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail 360 months		If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months.				
	Probation _____ months		Sentence was enhanced _____ months, pursuant to				
	SIS _____ months		A.C.A. §§ _____				
	Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death		Enhancement(s) is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.				
Victim Info# (See page 2) <input type="checkbox"/> N/A [Multiple Victims <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No]		Age	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic			
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.		Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., or <input type="checkbox"/> other §§ _____ <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input checked="" type="checkbox"/> was found guilty at a jury trial & sentenced by <input type="checkbox"/> court <input checked="" type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.					
Sentence is a Departure <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Sentence Departure is <input checked="" type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence: 306 months above					
Departure Reason (See page 2 for a list of reasons) Aggravating # 14 or Mitigating # _____ For Agg. #16 or Mit. #10, or if departing from guidelines, please explain: _____		Sentence will run: <input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # 1 to 10 and 12 to 18 or Case # _____					

Defendant's Full Name: Whitney, James Edward

Case # 72 CR-13-912-6

A.C.A. # of Offense/ Name of Offense+ 5-27-602 / Possession of Child Pornography				Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted	
A.C.A. # of Original Charged Offense		ATN WSH005473140		Appeal from District Court <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Probation/SIS Revocation+ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Offense Date August 2, 2012		Offense is <input type="checkbox"/> Felony <input type="checkbox"/> Misd. <input type="checkbox"/> Viol.		Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input checked="" type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U	
Number of Counts: 1	Criminal History Score 3		Seriousness Level 4		Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense
Presumptive Sentence <input type="checkbox"/> Prison Sentence of 54 months <input type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction					
Defendant Sentence* (see Page 2)		If probation or SIS accompanied by period of confinement, state time: days or months.			
Imposed <input checked="" type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail 360 months		Sentence was enhanced months, pursuant to			
Probation months		A.C.A. §§			
SIS months		Enhancement(s) is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.			
Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death		Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)			
Victim Info# (See page 2) <input type="checkbox"/> N/A <input type="checkbox"/> Age		Sex <input type="checkbox"/> Male	Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Female <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic		
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.		Defendant: <input type="checkbox"/> was sentenced pursuant to §§16-93-301 et seq., or <input type="checkbox"/> other §§ <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input checked="" type="checkbox"/> was found guilty at a jury trial & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.			
Sentence is a Departure <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Sentence Departure is <input type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence: 306 months above			
Departure Reason (See page 2 for a list of reasons) Aggravating # 14 or Mitigating # . For Agg. #16 or Mit. #10, or if departing from guidelines, please explain: _____				Sentence will run: <input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # 1 to 11 and 13 to 18 or Case # _____	
A.C.A. # of Offense/ Name of Offense+ 5-27-602 / Possession of Child Pornography				Case # 72 CR-13-912-6	
A.C.A. # of Original Charged Offense		ATN WSH005473140		Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted	
Appeal from District Court <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Probation/SIS Revocation+ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
Offense Date August 2, 2012		Offense is <input type="checkbox"/> Felony <input type="checkbox"/> Misd. <input type="checkbox"/> Viol.		Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input checked="" type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U	
Number of Counts: 1	Criminal History Score 3		Seriousness Level 4		Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense
Presumptive Sentence <input type="checkbox"/> Prison Sentence of 54 months <input type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction					
Defendant Sentence* (see Page 2)		If probation or SIS accompanied by period of confinement, state time: days or months.			
Imposed <input checked="" type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail 360 months		Sentence was enhanced months, pursuant to			
Probation months		A.C.A. §§			
SIS months		Enhancement(s) is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.			
Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death		Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)			
Victim Info# (See page 2) <input type="checkbox"/> N/A <input type="checkbox"/> Age		Sex <input type="checkbox"/> Male	Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Female <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic		
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.		Defendant: <input type="checkbox"/> was sentenced pursuant to §§16-93-301 et seq., or <input type="checkbox"/> other §§ <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input checked="" type="checkbox"/> was found guilty at a jury trial & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.			
Sentence is a Departure <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Sentence Departure is <input type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence: 306 months above			
Departure Reason (See page 2 for a list of reasons) Aggravating # 14 or Mitigating # . For Agg. #16 or Mit. #10, or if departing from guidelines, please explain: _____				Sentence will run: <input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # 1 to 12 and 14 to 18 or Case # _____	

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Case # 72 CR-13-912-6

Offense #: 14	A.C.A. # of Offense/ Name of Offense+ 5-27-602 / Possession of Child Pornography				ATN WSH005473140		Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted		
	A.C.A. # of Original Charged Offense		Appeal from District Court		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Probation/SIS Revocation+ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
	Offense Date August 2, 2012		Offense is <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misd. <input type="checkbox"/> Viol.		Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input checked="" type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U				
	Number of Counts: 1	Criminal History Score 3		Seriousness Level 4		Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense			
	Presumptive Sentence <input checked="" type="checkbox"/> Prison Sentence of 54 months				<input type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction				
	Defendant Sentence* (see Page 2)		If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months.						
	Imposed <input checked="" type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail 360 months		Sentence was enhanced _____ months, pursuant to						
	Probation _____ months		A.C.A. §§						
	SIS _____ months		Enhancement(s) is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.						
	Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death		Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)						
Victim Info# (See page 2) <input checked="" type="checkbox"/> N/A [Multiple Victims <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No]		Age	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic					
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.				Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., or <input type="checkbox"/> other §§ <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input checked="" type="checkbox"/> was found guilty at a jury trial & sentenced by <input type="checkbox"/> court <input checked="" type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.					
Sentence is a Departure <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Sentence Departure is <input checked="" type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence: 306 months above							
Departure Reason (See page 2 for a list of reasons) Aggravating # 14 or Mitigating # _____ For Agg. #16 or Mit. #10, or if departing from guidelines, please explain: _____				Sentence will run: <input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # 1 to 13 and 15 to 18 or Case # _____					
A.C.A. # of Offense/ Name of Offense+ 5-27-602 / Possession of Child Pornography				Case # 72 CR-13-912-6					
A.C.A. # of Original Charged Offense				ATN WSH005473140		Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted			
Appeal from District Court				<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Probation/SIS Revocation+ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
Offense Date August 2, 2012		Offense is <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misd. <input type="checkbox"/> Viol.		Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input checked="" type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U					
Number of Counts: 1	Criminal History Score 3		Seriousness Level 4		Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense				
Presumptive Sentence <input checked="" type="checkbox"/> Prison Sentence of 54 months				<input type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction					
Defendant Sentence* (see Page 2)		If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months.							
Imposed <input checked="" type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail 360 months		Sentence was enhanced _____ months, pursuant to							
Probation _____ months		A.C.A. §§							
SIS _____ months		Enhancement(s) is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.							
Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death		Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)							
Victim Info# (See page 2) <input checked="" type="checkbox"/> N/A [Multiple Victims <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No]		Age	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic					
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.				Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., or <input type="checkbox"/> other §§ <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input checked="" type="checkbox"/> was found guilty at a jury trial & sentenced by <input type="checkbox"/> court <input checked="" type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.					
Sentence is a Departure <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Sentence Departure is <input checked="" type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence: 306 months above							
Departure Reason (See page 2 for a list of reasons) Aggravating # 14 or Mitigating # _____ For Agg. #16 or Mit. #10, or if departing from guidelines, please explain: _____				Sentence will run: <input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # 1 to 14 and 16 to 18 or Case # _____					

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Defendant's Full Name: Whitney, James Edward

Offense #: 16	A.C.A. # of Offense/ Name of Offense 5-27-602 / Possession of Child Pornography				Case # 72 CR-13-912-6	
	A.C.A. # of Original Charged Offense		ATN WSH005473140		Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted	
			Appeal from District Court		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Probation/SIS Revocation+ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Offense Date August 2, 2012		Offense is <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misd. <input type="checkbox"/> Viol.		Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input checked="" type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U	
	Number of Counts: 1	Criminal History Score 3		Seriousness Level 4		Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense
	Presumptive Sentence <input checked="" type="checkbox"/> Prison Sentence of 54 months <input checked="" type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction					
	Defendant Sentence* (see Page 2)		If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months.			
	Imposed <input checked="" type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail 360 months		Sentence was enhanced _____ months, pursuant to			
	Probation _____ months		A.C.A. §§			
	SIS _____ months		Enhancement(s) is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.			
Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death		Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)				
Victim Info# (See page 2) <input checked="" type="checkbox"/> N/A [Multiple Victims <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No]		Age	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic		
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.		Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., or <input type="checkbox"/> other §§ <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input checked="" type="checkbox"/> was found guilty at a jury trial & sentenced by <input type="checkbox"/> court <input checked="" type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.				
Sentence is a Departure <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Sentence Departure is <input checked="" type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence: 306 months above				
Departure Reason (See page 2 for a list of reasons) Aggravating # 14 or Mitigating # _____ For Agg. #16 or Mit. #10, or if departing from guidelines, please explain: _____				Sentence will run: <input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # 1 to 15 and 17 and 18 or Case # _____		
Offense #: 17	A.C.A. # of Offense/ Name of Offense 5-27-602 / Possession of Child Pornography				Case # 72 CR-13-912-6	
	A.C.A. # of Original Charged Offense		ATN WSH005473140		Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted	
			Appeal from District Court		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Probation/SIS Revocation+ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Offense Date August 2, 2012		Offense is <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misd. <input type="checkbox"/> Viol.		Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input checked="" type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U	
	Number of Counts: 1	Criminal History Score 3		Seriousness Level 4		Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense
	Presumptive Sentence <input checked="" type="checkbox"/> Prison Sentence of 54 months <input checked="" type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction					
	Defendant Sentence* (see Page 2)		If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months.			
	Imposed <input checked="" type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail 360 months		Sentence was enhanced _____ months, pursuant to			
	Probation _____ months		A.C.A. §§			
	SIS _____ months		Enhancement(s) is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.			
Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death		Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)				
Victim Info# (See page 2) <input checked="" type="checkbox"/> N/A [Multiple Victims <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No]		Age	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic		
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.		Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., or <input type="checkbox"/> other §§ <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input checked="" type="checkbox"/> was found guilty at a jury trial & sentenced by <input type="checkbox"/> court <input checked="" type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.				
Sentence is a Departure <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Sentence Departure is <input checked="" type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence: 306 months above				
Departure Reason (See page 2 for a list of reasons) Aggravating # 14 or Mitigating # _____ For Agg. #16 or Mit. #10, or if departing from guidelines, please explain: _____				Sentence will run: <input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # 1 to 16 and 18 or Case # _____		

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Defendant's Full Name: Whitney, James Edward

A.C.A. # of Offense/ Name of Offense+ 5-27-602 / Possession of Child Pornography				Case # 72 CR-13-912-6
A.C.A. # of Original Charged Offense		ATN WSH005473140	Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted	Appeal from District Court <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Probation/SIS Revocation+ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Offense Date August 2, 2012		Offense is <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misd. <input type="checkbox"/> Viol.	Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input checked="" type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U	
Number of Counts: 1	Criminal History Score 3	Seriousness Level 4	Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense	
Presumptive Sentence <input type="checkbox"/> Prison Sentence of 54 months <input type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction				
Defendant Sentence* (see Page 2) Imposed <input type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail 360 months Probation _____ months SIS _____ months Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death		If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months. Sentence was enhanced _____ months, pursuant to A.C.A. §§ _____ Enhancement(s) is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive. Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)		
Victim Info# (See page 2) <input type="checkbox"/> N/A Age _____ [Multiple Victims <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No]		Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic	
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.		Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., or <input type="checkbox"/> other §§ _____ <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input checked="" type="checkbox"/> was found guilty at a jury trial & sentenced by <input type="checkbox"/> court <input checked="" type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.		
Sentence is a Departure <input type="checkbox"/> Yes <input type="checkbox"/> No		Sentence Departure is <input type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence: 306 months above		
Departure Reason (See page 2 for a list of reasons) Aggravating # 14 or Mitigating # _____ For Agg. #16 or Mit. #10, or if departing from guidelines, please explain: _____		Sentence will run: <input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # 1 to 17 or Case # _____		
A.C.A. # of Offense/ Name of Offense+ 5-27-602 / Possession of Child Pornography				Case # 72 CR-13-912-6
A.C.A. # of Original Charged Offense		ATN WSH005473140	Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input checked="" type="checkbox"/> Acquitted	Appeal from District Court <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Probation/SIS Revocation+ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Offense Date August 2, 2012		Offense is <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misd. <input type="checkbox"/> Viol.	Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input checked="" type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U	
Number of Counts: 1	Criminal History Score 3	Seriousness Level 4	Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense	
Presumptive Sentence <input type="checkbox"/> Prison Sentence of _____ months <input type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction				
Defendant Sentence* (see Page 2) Imposed <input type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail _____ months Probation _____ months SIS _____ months Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death		If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months. Sentence was enhanced _____ months, pursuant to A.C.A. §§ _____ Enhancement(s) is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive. Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)		
Victim Info# (See page 2) <input type="checkbox"/> N/A Age _____ [Multiple Victims <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No]		Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic	
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.		Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., or <input type="checkbox"/> other §§ _____ <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input checked="" type="checkbox"/> was found guilty at a jury trial & sentenced by <input type="checkbox"/> court <input checked="" type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.		
Sentence is a Departure <input type="checkbox"/> Yes <input type="checkbox"/> No		Sentence Departure is <input type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence:		
Departure Reason (See page 2 for a list of reasons) Aggravating # _____ or Mitigating # _____ For Agg. #16 or Mit. #10, or if departing from guidelines, please explain: _____		Sentence will run: <input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # _____ or Case # _____		

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Defendant's Full Name: Whitney, James Edward

Offense #: 20	A.C.A. # of Offense/ Name of Offense: 5-27-602 / Possession of Child Pornography				Case # 72 CR-13-912-6
	A.C.A. # of Original Charged Offense		ATN WSH005473140	Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input checked="" type="checkbox"/> Acquitted	
		Appeal from District Court	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Probation/SIS Revocation+ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Offense Date August 2, 2012		Offense is <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misd. <input type="checkbox"/> Viol.	Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input checked="" type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U		
Number of Counts: 1	Criminal History Score	Seriousness Level		Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense	
Presumptive Sentence <input type="checkbox"/> Prison Sentence of _____ months <input type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction					
Defendant Sentence* (see Page 2) Imposed <input type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail _____ months Probation _____ months SIS _____ months Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death		If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months. Sentence was enhanced _____ months, pursuant to A.C.A. §§ _____. Enhancement(s) is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive. Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)			
Victim Info# (See page 2) <input type="checkbox"/> N/A (Multiple Victims <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No)		Age	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic	
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.		Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., or <input type="checkbox"/> other §§ _____. <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty at a jury trial & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.			
Sentence is a Departure <input type="checkbox"/> Yes <input type="checkbox"/> No		Sentence Departure is <input type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence:			
Departure Reason (See page 2 for a list of reasons) Aggravating # _____ or Mitigating # _____. For Agg. #16 or Mit. #10, or if departing from guidelines, please explain: _____				Sentence will run: <input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # _____ or Case # _____	
Offense #: 25	A.C.A. # of Offense/ Name of Offense:				Case #
	A.C.A. # of Original Charged Offense		ATN	Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted	
		Appeal from District Court	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Probation/SIS Revocation+ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Offense Date		Offense is <input type="checkbox"/> Felony <input type="checkbox"/> Misd. <input type="checkbox"/> Viol.	Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U		
Number of Counts:	Criminal History Score	Seriousness Level		Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense	
Presumptive Sentence <input type="checkbox"/> Prison Sentence of _____ months <input type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction					
Defendant Sentence* (see Page 2) Imposed <input type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail _____ months Probation _____ months SIS _____ months Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death		If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months. Sentence was enhanced _____ months, pursuant to A.C.A. §§ _____. Enhancement(s) is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive. Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)			
Victim Info# (See page 2) <input type="checkbox"/> N/A (Multiple Victims <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No)		Age	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic	
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.		Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., or <input type="checkbox"/> other §§ _____. <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty at a jury trial & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.			
Sentence is a Departure <input type="checkbox"/> Yes <input type="checkbox"/> No		Sentence Departure is <input type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence:			
Departure Reason (See page 2 for a list of reasons) Aggravating # _____ or Mitigating # _____. For Agg. #16 or Mit. #10, or if departing from guidelines, please explain: _____				Sentence will run: <input type="checkbox"/> Consecutive <input type="checkbox"/> Concurrent to Offense # _____ or Case # _____	

Special Conditions

Sex Offenses Defendant has been adjudicated guilty of an offense requiring sex offender registration and must complete the Sex Offender Registration Form. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Domestic Violence Offenses Defendant has been adjudicated guilty of a domestic-violence related offense. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If no, was defendant originally charged with a domestic-violence related offense? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, state the A.C.A. # of the offense: If yes to either question, identify the relationship of the victim to the defendant.
Defendant has committed an aggravated sex offense as defined in A.C.A. §12-12-903. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Defendant is alleged to be a sexually violent predator and is ordered to undergo an evaluation at a facility designated by A.D.C. pursuant to A.C.A. §12-12-918. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Defendant, who has been adjudicated guilty of an offense requiring registration, has been adjudicated guilty of a prior sex offense under a separate case number. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, list prior case numbers: out of state		
DNA Sample/Qualifying Offense Defendant has been adjudicated guilty of a qualifying offense or repeat offense (as defined in A.C.A. §12-12-1103). <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Defendant is ordered to have a DNA sample drawn at <input type="checkbox"/> a A.C.C. facility <input checked="" type="checkbox"/> the A.D.C. or <input type="checkbox"/> other _____		Drug Crime Defendant has been convicted of a drug crime, as defined in §12-17-101. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Fines, Restitution

Court Costs	\$	Restitution \$ _____ Payable to [If multiple beneficiaries, give names and payment priority] _____
Fines	\$ 180,000	
Booking/Admin Fees (\$20)	\$ 20	
Drug Crime Assessment Fee (\$125)	\$	Terms
DNA Sample Fee (\$250)	\$ 250	<input type="checkbox"/> Due Immediately
Mandatory Sex Offender Fee (\$250)	\$ 250	<input checked="" type="checkbox"/> Installments of: \$75 plus \$10 per month collection fee per month
Public Defender User Fee	\$ as ordered	<input checked="" type="checkbox"/> Payments must be made within 60 days of release from A.D.C.
Public Defender Attorney Fee	\$	<input type="checkbox"/> Upon release from confinement, Defendant must return to court to establish payment of restitution
Other (explain)	\$	<input type="checkbox"/> Restitution is joint and several with co-defendant(s) who was found guilty - List name(s) and case number(s) _____
Collection fee per month	10	

Sentence Options

Defendant was convicted of a target offense(s) and is sentenced pursuant to provisions of the Community Punishment Act. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		The Court hereby orders a judicial transfer to the Department of Community Correction. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Extended Juvenile Jurisdiction Applied <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Pursuant to the Community Punishment Act, the Defendant shall be eligible to have his/her records sealed. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
JAIL TIME CREDIT 774	TOTAL TIME TO BE SERVED FOR ALL OFFENSES In months: 6,480 <input type="checkbox"/> Life <input type="checkbox"/> LWOP		Death Penalty <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If Yes, State Execution Date:
DEFENDANT IS ASSIGNED TO: <input checked="" type="checkbox"/> ADC <input type="checkbox"/> CCC <input type="checkbox"/> COUNTY JAIL <input type="checkbox"/> PROBATION <input type="checkbox"/> SIS <input type="checkbox"/> SPECIAL CONDITIONS				
Conditions of disposition or probation are attached. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
A copy of the pre-sentence investigation on sentencing information is attached <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Defendant has previously failed a drug court program.				
A copy of the Prosecutor's Short Report is attached <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
DEFENDANT WAS INFORMED OF APPELLATE RIGHTS <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Appeal Bond \$				
The County Sheriff is hereby ordered to: <input type="checkbox"/> transport the defendant to county jail <input type="checkbox"/> take custody for referral to CCC <input checked="" type="checkbox"/> transport to ADC				
Defendant shall report to ACC probation officer for report date to CCC <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

Signature

Prosecuting Attorney/Deputy (Print Name): <u>Kevin B. Metcalf</u>	Date: <u>May 12, 2016</u>
Signature: <u>KB Metcalf</u>	
Circuit Judge (Print Name): <u>Mark Lindsay</u>	Date: <u>May 12, 2016</u>
Signature: <u>Mark Lindsay</u>	

Additional Info

Additional Info: The sentence of 6,480 months and fine of \$180,000 is derived from 30 years ADC and \$10,000 fine for each of 18 counts, all to run consecutively.

WESTLAW

Gray v. State

Supreme Court of Arkansas. March 8, 2018 2018 Ark. 79 540 S.W.3d 658 (Approx. 5 pages)

2018 Ark. 79

Supreme Court of Arkansas.

James GRAY, Jr., Appellant

v

STATE of Arkansas, Appellee

No. CR-17-613

Opinion Delivered: March 8, 2018

Synopsis

Background: Defendant who entered guilty pleas to first-degree murder and aggravated robbery filed petition for writ of error coram nobis, asserting that pleas were not knowing, voluntary, and intelligent due to ineffective assistance of counsel. The Circuit Court, Clark County, denied petition, and defendant appealed. He also filed motion for extension of time to file brief.

Holdings: The Supreme Court, Rhonda K. Wood, Associate Justice, held that

1 claims that guilty pleas were not voluntary and intelligent due to alleged ineffective assistance of plea counsel were not cognizable on writ of error coram nobis, and 2 alleged threat of possibility of life sentence was not allegation that pleas were coerced, as basis for obtaining writ.

Appeal dismissed; motion moot.

Josephine Linker Hart, J., filed dissenting opinion.

West Headnotes (7)

Change View

1 Criminal Law  Presumptions

In error coram nobis proceedings, the presumption is that the judgment of conviction is valid.

2 Criminal Law  Error Coram Nobis

The function of the writ of error coram nobis is to provide relief from a judgment entered when there existed some fact that would have prevented its entry had the trial court known of it, and that, through no negligence or fault of the defendant, was not brought forward before entry of the judgment.

3 Criminal Law  Error Coram Nobis

The writ of error coram nobis is issued only under compelling circumstances to achieve justice and to address errors of the most fundamental nature, and it is available to address only certain errors that are found in one of four categories: (1) insanity at the time of trial, (2) a coerced guilty plea, (3) material evidence withheld by the prosecutor, or (4) a third-party confession to the crime during the time between conviction and appeal.

4 Criminal Law Effectiveness of Counsel

Ineffective-assistance-of-counsel claims are not cognizable in error coram nobis proceedings. U.S. Const. Amend. 6.

5 Criminal Law  Compared and contrasted with other remedy

Criminal Law  Effectiveness of Counsel

Coram nobis proceedings are not to be used as a substitute for raising claims of ineffective assistance of counsel under the rule governing a motion for postconviction relief and are not interchangeable with postconviction proceedings, which is the remedy for asserting allegations of ineffective assistance of counsel. U.S. Const. Amend. 6; Ark. R. Crim. P. 37.1.

6 Criminal Law  Plea

Defendant's claims that guilty pleas to first-degree murder and aggravated robbery were not voluntary and intelligent due to alleged ineffective assistance of plea counsel were not cognizable on writ of error coram nobis. U.S. Const. Amend. 6.

7 Criminal Law  Voluntariness

Defendant's allegation that he was threatened with possibility of life sentence, without more, did not state claim that guilty pleas to first-degree murder and aggravated robbery were coerced, as basis for obtaining writ of error coram nobis; defendant did not allege that he pleaded guilty as result of physical or psychological duress.

**659 PRO SE MOTION FOR EXTENSION OF TIME TO LODGE THE APPELLANT'S BRIEF [CLARK COUNTY CIRCUIT COURT, NO. 10CR-15-19]

Opinion

Rhonda K. Wood, Associate Justice

32-A

*1 Appellant James Gray, Jr., appeals from the denial of a pro se petition for a writ of error coram nobis wherein he alleged that his guilty plea was not voluntarily or intelligently entered with the assistance of competent counsel. Pending before this court is Gray's motion for an extension of time to file his appellate brief. An appeal from an order that denied a petition for postconviction relief, including a petition for writ of error coram nobis, will not be permitted to go forward where it is clear that the appellant could not prevail. See *Brown v. State*, 2017 Ark. 232, at 2, 522 S.W.3d 791, 792; see also *Justus v. State*, 2012 Ark. 91, at 2. A review of the record demonstrates that Gray's allegations are not cognizable in coram nobis proceedings, and he therefore cannot prevail on appeal. Accordingly, the appeal is dismissed, and the motion for extension of brief time is moot.

1 2 3 *2 In error coram nobis proceedings, the presumption is that the judgment of conviction is valid. *Nelson v. State*, 2014 Ark. 91, at 3, 431 S.W.3d 852, 854. The function of the writ is to provide relief from a judgment entered when there existed some fact that would have prevented its entry had the trial court known of it, and that, through no negligence or fault of the defendant, was not brought forward before entry of the judgment. *Id.* The writ is issued only under compelling circumstances to achieve justice and to address errors of the most fundamental nature, and it is available to address only certain errors that are found in one of four categories: (1) insanity at the time of trial, (2) a coerced guilty plea, (3) material evidence withheld by the prosecutor, or (4) a third-party confession to the crime during the time between conviction and appeal. *Id.*

In April 2016, Gray pleaded guilty to first-degree murder and aggravated robbery. On April 10, 2017, almost a year after the sentencing order had been entered, Gray filed a petition seeking coram nobis relief and alleged the following: he did not waive his constitutional right to competent counsel at the time of his plea; counsel ineffectively negotiated his plea agreement; counsel erroneously advised him that he would be required to serve seventy percent of his sentence, when in fact, he must serve 100 percent of his sentence of 564 months' imprisonment; and he was coerced into pleading guilty with threats of the possibility of being sentenced to life imprisonment. In sum, Gray has alleged entitlement to coram nobis relief primarily on the basis of allegations of ineffective assistance of counsel.

*3 Ineffective-assistance-of-counsel claims are not cognizable in error coram nobis proceedings. Under our state law, coram nobis proceedings are not to be used as a substitute for raising claims of ineffective assistance of counsel under Arkansas Rule of Criminal Procedure 37.1 (2016) and are not interchangeable with proceedings under Rule 37.1, which is the remedy for asserting allegations of ineffective assistance of counsel. *State v. Tejeda-Acosta*, 2013 Ark. 217, at 8–9, 427 S.W.3d 673, 678. The writ is not available when a mistake or error of law is made by counsel. *Id.*

7 Gray's allegation that his guilty plea was coerced is equally unavailing. This court has previously recognized that a writ of error coram nobis is available if a petitioner establishes that he is guilty as a result of fear, duress, or threats of mob violence. **660 *Nelson*, 2014 Ark. 91, at 4, 431 S.W.3d at 855. Gray did not allege that his guilty plea resulted from any form of physical or psychological duress but instead alleged that he had been threatened with the possibility of a life sentence. It is well settled that mere pressure to plead guilty occasioned by the fear of a more severe sentence is not considered coercion. *Id.*

Appeal dismissed; motion moot.

Hart, J., dissents.

Josephine Linker Hart, Justice, dissenting.

This court has denied Mr. Gray due process by dismissing his appeal. The only matter that was pending before this court in Mr. Gray's appeal was his motion for an extension of time to file his brief. Mr. Gray timely informed this court via his motion that, because of problems with the photocopier *4 at the prison, he needed more time to procure the eight copies of his brief that our rules require. See Ark. Sup. Ct. R. 4–7(c)(4). Because Mr. Gray had not perfected his appeal, this court did not have jurisdiction to decide his appeal on the merits.

Along with his motion, Mr. Gray tendered a single copy of his brief. If the majority was motivated by some notion of efficiency, it could have waived the copying requirement because this case was submitted electronically to the various justices' chambers. The majority could also have amended Rule 4–7(c)(4) to eliminate the copying requirement effective with Mr. Gray's filing. That course of action would be consistent with this court's authority under the Arkansas Constitution, which gives us the authority to prescribe all rules of practice and procedure. Ark. Const. amend. 80 § 3. It was through the exercise of this authority that this court adopted Rule 4–7, which establishes the parameters of Mr. Gray's due-process rights. The right to due process is guaranteed by both the Arkansas Constitution and the U.S. Constitution.

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This court does not have jurisdiction to "review the record" and decide that Mr. Gray cannot prevail in his appeal. It is telling that the majority relies on *Brown v. State*, 2017 Ark. 232, 522 S.W.3d 791, as authority for this undertaking. *Brown* involved a declaratory-judgment action in which this court dismissed the appeal because there was no justiciable issue. *Id.* That disposition is consistent with other declaratory-judgment appeals. See, e.g., *Baptist Health Systems v. Rutledge*, 2016 Ark. 121, 488 S.W.3d 507. It is disingenuous for the majority to call a declaratory judgment a "post-conviction" case simply *5 because an incarcerated person filed it. The customary disposition—dismissal—of a declaratory-judgment appeal in which a jurisdictional element of the cause of action is found to be absent is not authority for dismissing a petition for writ of error coram nobis.

This court should never deny a litigant due process. Moreover, I, for one, am mindful that the right of access to the courts found in the Arkansas Constitution applies to the Arkansas Supreme Court as well.

I respectfully dissent.

All Citations

2018 Ark. 79, 540 S.W.3d 658

**Additional material
from this filing is
available in the
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