# APPENDIX

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IN THE CIRCUIT COURT OF LEE COUNTY, MISSISSIPPI

LEONARD EARL BROWN — PETITIONER

VS. — CAUSE NO.: CR08-010(G)(L)

STATE OF MISSISSIPPI — RESPONDENT

ORDER

This matter comes before this Court on Petitioner Leonard Earl Brown's Post Conviction Petition for Out of Time Appeal and for Other Relief, filed pursuant to Miss. Code Ann. §99-39-1, *et. seq.* The Court has reviewed the Motion, the response, the record, the relevant law, and now certifying that Petitioner is indigent and may proceed *in forma pauperis*, finds as follows::

Petitioner was convicted at trial on November 14, 2008, of one (1) count of Kidnapping in Count I and one (1) count of Burglary in Count II. Petitioner was sentenced, on or about November 20, 2008, to fifteen (15) years in MDOC custody in Count I, with ten (10) of those years suspended, leaving five (5) to serve, followed by five (5) years post-release supervision, and to ten (10) years suspended in Count II. Both sentences were to run consecutively to each other.

On August 31, 2017, Petitioner filed his first motion for permission to file an out of time appeal, *pro se*, but the record is devoid of a ruling on that motion, or that motion being set for hearing. Around this time, Petitioner filed an Application for Leave to Proceed in the Trial Court with the Mississippi Supreme Court, which was denied on December 6, 2017, for being improperly filed. Subsequent to the December 2017 denial, Petitioner filed a Petition for Writ of Mandamus with the Supreme

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LEE CO. CIRCUIT CLERK
D.C.



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Court, which was dismissed without prejudice by that Court on November 15, 2018. Several months prior to the dismissal of the petition for writ of mandamus, Petitioner filed his second Motion for Permission to Proceed Out of Time, requesting permission to seek an untimely appeal on April 18, 2018. Again, the record is devoid of any ruling or hearing on that motion. Petitioner has now filed the present Motion, nearly fifteen (15) years after his conviction, seeking leave to proceed on an out of time appeal to the Supreme Court.

Miss. Code Ann. § 99-39-5(2) provides that "[a] motion for relief under this article shall be made...within three (3) years after the time for taking an appeal from the judgment of conviction or sentence has expired" *Id.* Additionally, the Legislature has provided a number statutory exceptions to this three-year statute of limitations in Section 99-39-5(2)(a) and (b); however, Petitioner has failed to assert any grounds for relief cognizable within these exceptions. Therefore, consistent with *Howell v. State*, 358 So.3d 613 (Miss. 2023), this Court finds that Petitioner's claim shall be, and hereby is, **DENIED** and **DISMISSED**.

**SO ORDERED** this, the 7th day of February, 2024.

KELLY L. MIMS
CIRCUIT JUDGE

ADMINISTRATOR
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D.C.

## CERTIFICATE OF SERVICE

I, Christopher A. Collins, do hereby certify that I have this day delivered a true and correct copy of the above, foregoing document in a manner prescribed by law through e-filing email notification to:

Honorable Thomas J. Gardner III
Circuit Court Judge
Circuit Court of Lee County

Honorable Lynn Fitch
Counsel for the Appellee

Honorable John Weedle
District Attorney
Counsel for the Appellee

This service effective this, the 19th day of September 2024.

/s/ Christopher A. Collins
Christopher A. Collins

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# IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

## NO. 2024-CA-00307-COA

**LEONARD EARL BROWN** — **APPELLANT**

**v.**

**STATE OF MISSISSIPPI** — **APPELLEE**

| | |
|---|---|
| DATE OF JUDGMENT: | 02/09/2024 |
| TRIAL JUDGE: | HON. KELLY LEE MIMS |
| COURT FROM WHICH APPEALED: | LEE COUNTY CIRCUIT COURT |
| ATTORNEY FOR APPELLANT: | CHRISTOPHER A. COLLINS |
| ATTORNEYS FOR APPELLEE: | OFFICE OF THE ATTORNEY GENERAL<br>BY: SCOTT STUART |
| NATURE OF THE CASE: | CIVIL - POST-CONVICTION RELIEF |
| DISPOSITION: | AFFIRMED - 07/22/2025 |
| MOTION FOR REHEARING FILED: | |

**BEFORE WILSON, P.J., LAWRENCE AND McCARTY, JJ.**

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

¶1. A defendant filed a petition seeking permission to file an out-of-time appeal nearly 15 years after he was convicted of 2 felonies. The trial court dismissed his petition without reaching the merits, finding it was time-barred and not subject to any exceptions. Finding no error, we affirm.

## FACTS AND PROCEDURAL HISTORY

¶2. In November 2008, a jury convicted Leonard Brown Jr. of kidnapping and burglary of a dwelling. A week later, the trial court sentenced him. For the kidnapping charge, Brown was sentenced to a term of 15 years in the custody of the Mississippi Department of Corrections, with 5 years to serve and 10 years suspended, followed by 5 years of post-

release supervision. For the burglary charge, he was sentenced to 10 years, all suspended, set to run concurrently.

¶3. Brown's trial counsel moved for an appeal bond, which the trial court denied in December 2008. This motion included the following statements: "The Defendant will appeal his case to the Mississippi Supreme Court within ten days if and when the Court Denies his Motion for a New Trial which is now pending," and "The Defendant has meritorious issues for appeal . . . ." Despite these indications, neither Brown nor his trial counsel filed a direct appeal.

¶4. In July 2009, Brown filed a motion pro se requesting permission to file an out-of-time appeal. The trial court denied his motion, and two months later, Brown filed a notice of appeal from this decision. The Mississippi Supreme Court Clerk ultimately dismissed Brown's appeal because he failed to file an appellant's brief.

¶5. In July 2011, Brown was discharged from MDOC custody and began serving post-release supervision. After he was indicted on new charges a few months later, Brown's PRS was revoked and he was remanded into custody and ordered to serve the 10 years that were originally suspended.

¶6. Then in August 2017, Brown submitted to the Mississippi Supreme Court his "Application for Leave to Proceed in the Trial Court for the Circuit Court of Lee County, along with my Petition for Post Conviction Relief." Because the Supreme Court found that Brown "ha[d] not appealed his convictions and sentences," his filing was "dismissed as improperly filed," citing "Miss. Code Ann. § 99-39-7 (2015)."

¶7. In September 2023, nearly 6 years later, Brown filed a "Post Conviction Petition for Out of Time Appeal and For Other Relief" through new appellate counsel. He asserted that his trial counsel "did not perfect an appeal," and he sought "[r]elief for an out of time appeal" under "Miss. R. App. Proc. Rule 4 (g) and (h), if applicable, and Miss. Code Ann. § 99-39-5(1)(i)," as well as an evidentiary hearing.

¶8. The trial court summarily dismissed Brown's requested relief, finding that he "filed the present Motion[] nearly fifteen (15) years after his conviction," and he "failed to assert any grounds for relief cognizable within" the designated statutory exceptions, "consistent with *Howell v. State*, 358 So. 3d 613 (Miss. 2023)."

¶9. Brown appeals, asserting that the trial court erred by not holding an evidentiary hearing on his petition and by denying him the opportunity to file an out-of-time appeal.

**DISCUSSION**

¶10. "When reviewing a trial court's denial or dismissal of a PCR petition, we will only disturb the trial court's factual findings if they are clearly erroneous; however, we review the trial court's legal conclusions under a de novo standard of review." *Shanks v. State*, 396 So. 3d 1199, 1201 (¶7) (Miss. Ct. App. 2024) (quoting *Cuevas v. State*, 304 So. 3d 1163, 1167 (¶19) (Miss. Ct. App. 2020)). We find Brown's PCR petition was untimely filed, and there was no proof it was subject to any exception to the time-bar.

¶11. Under Mississippi law, when no direct appeal has been taken, "a PCR motion must be filed . . . within three (3) years after the time for taking an appeal from the judgment of conviction or sentence has expired.'" *Hyland v. State*, 401 So. 3d 1056, 1058 (¶10) (Miss.

Ct. App. 2024) (quoting Miss. Code Ann. § 99-39-5(2) (Rev. 2020)). Post-conviction "claims are time-barred if they are filed beyond the three-year time period *unless* the claim fits within one of the express statutory exceptions." *Bell v. State*, 378 So. 3d 420, 421 (¶4) (Miss. Ct. App. 2023) (emphasis added) (citing *Howell*, 358 So. 3d at 615 (¶¶7-8)). The defendant "must prove an exception applies" to overcome the statutory bar. *Id.* at 421 (¶5); Miss. Code Ann. § 99-39-5(2) (listing the statutory exceptions to the three-year time bar).

¶12. Here, Brown was convicted of kidnapping and burglary charges in November 2008. On the day of sentencing, he filed a motion through trial counsel seeking a new trial or judgment notwithstanding the verdict. The trial court entered its order denying his motion in December 2008. Brown then had 30 days to file a notice of appeal, which accrued in January 2009. As such, Brown's time for appeal expired in January 2009.

¶13. It is undisputed that Brown never filed a direct appeal after his conviction. Brown had 3 years to file a PCR petition after his appeal window expired, so the statute of limitations period for his claims ran out in January 2012. He did not file any such petition. Therefore, the trial court did not err in finding the 2023 petition time-barred.

## CONCLUSION

¶14. We find that Brown's PCR motion was untimely filed and not subject to an exception from the statutory bar and affirm the trial court's dismissal.

¶15. **AFFIRMED.**

**BARNES, C.J., CARLTON AND WILSON, P.JJ., WESTBROOKS, McDONALD, LAWRENCE, EMFINGER AND ST. PÉ, JJ., CONCUR. WEDDLE, J., NOT PARTICIPATING.**

8a

# Supreme Court of Mississippi
## Court of Appeals of the State of Mississippi
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November 25, 2025

This is to advise you that the Mississippi Court of Appeals rendered the following decision on the 25th day of November, 2025.

Court of Appeals Case # 2024-CA-00307-COA
Trial Court Case # CR08-010A

Leonard Earl Brown v. State of Mississippi

The motion for rehearing is denied. Weddle, J., not participating.

* NOTICE TO CHANCERY/CIRCUIT/COUNTY COURT CLERKS *
If an original of any exhibit other than photos was sent to the Supreme Court Clerk and should now be returned to you, please advise this office in writing immediately.

**Please note: Pursuant to MRAP 45(c), amended effective July, 1, 2010, copies of opinions will not be mailed. Any opinion rendered may be found by visiting the Court's website at: https://courts.ms.gov, and selecting the appropriate date the opinion was rendered under the category "Decisions."**

Serial: **261175**

**IN THE SUPREME COURT OF MISSISSIPPI**

**No. 2024-CT-00307-SCT**

***LEONARD EARL BROWN*** — ***Appellant/Petitioner***

***v.***

***STATE OF MISSISSIPPI*** — ***Appellee/Respondent***

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**ORDER**

Before the Court is Leonard Earl Brown's Petition for Writ of Certiorari. After due consideration, the Court finds the petition should be denied.

IT IS, THEREFORE, ORDERED that Leonard Earl Brown's Petition for Writ of Certiorari is hereby denied.

SO ORDERED, this the 2 day of February, 2026.

MICHAEL K. RANDOLPH,
CHIEF JUSTICE

ALL JUSTICES AGREE TO DENY.