ARKANSAS SUPREME COURT
No. CR 05-741

NOT DESIGNATED FOR PUBLICATION

JAMES W. WOOD
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered April 13, 2006

PRO SE APPEAL FROM THE CIRCUIT COURT OF JACKSON COUNTY, CR 2003-101, CR 2003-166, HON. HAROLD S. ERWIN, JUDGE

AFFIRMED

PER CURIAM

James W. Wood entered a plea of guilty to one count of possession of a controlled substance with intent to deliver (methamphetamine), one count of possession of drug paraphernalia, one count of possession of a controlled substance (methamphetamine), and one count of possession of more than nine grams of pseudoephedrine. He received an aggregate sentence of 384 months' imprisonment.

Subsequently, Wood timely filed in the trial court a *pro se* petition for postconviction relief pursuant to Ark. R. Crim. P. 37.1. The trial court denied the petition without a hearing and Wood, proceeding *pro se*, has lodged an appeal in this court from that order. We find no error and affirm the trial court's order.

Wood's petition sought to withdraw his guilty plea. In its order, the trial court determined that Wood did not allege any facts to support his petition, failed to show actual prejudice to warrant relief and did not list any factual basis for his claim of ineffective assistance of counsel. Additionally, the trial court denied Wood's request to be allowed to proceed *in forma pauperis*, to be appointed counsel in a postconviction proceeding and for copies and transcripts at public expense. As Wood voluntarily entered a plea of guilty, the trial court held that Wood was not entitled to postconviction relief and dismissed the petition with prejudice.

On appeal to this court, appellant Wood's "brief" consists of a number of miscellaneous

"arguments" on numerous claims. The brief utilizes multiple fonts, font sizes and formatting, and appears as though random legal issues from various sources were cobbled together in lieu of a cohesive argument. The brief, as a whole, does not conform to our requirements for the contents of briefs on appeal. Ark. Sup. Ct. R. 4-2. However, we are not affording appellant an opportunity to cure the deficiencies because it is clear from our review of appellant's claims that he could not prevail on appeal. This court has consistently held that an appeal of the denial of postconviction relief will not be permitted to go forward where it is clear that the appellant could not prevail. *Seaton v. State*, 324 Ark. 236, 920 S.W.2d 13 (1996) (*per curiam*).

On appeal, appellant raises a number of issues that he did not raise in his original petition filed in the trial court.[1] It is well settled that we will not consider an argument raised for the first time on appeal. *Ayers v. State,* 334 Ark. 258, 975 S.W.2d 88 (1998). Issues raised, including constitutional issues, must be presented to the trial court to preserve them for appeal. *Standridge v. State,* 357 Ark. 105, 161 S.W.3d 815 (2004). As these issues are being raised for the first time on appeal, this court will not address the allegations.

With regard to his remaining issues on appeal that appellant initially raised in his original petition, appellant claimed that he was prevented from intelligently and voluntarily entering his guilty plea due to his trial counsel's ineffective assistance and prosecutorial misconduct and sought to withdraw his guilty plea. Additionally, appellant argued that the trial court erred when it denied appellant's request to be appointed counsel or proceed *in forma pauperis* and obtain transcripts and

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[1]These issues include: the constitutionality of Criminal Procedure Rule 26 and Rule 37; the "legality" of Rule 37 and of circuit court procedures; lack of speedy trial; violation of numerous federal rules and statutes; various allegations regarding misconduct, conspiracy or malicious prosecution on the part of the judge, prosecutor, trial counsel, law enforcement officials and State officials; civil liability of the trial judge and others pursuant to 42 U.S.C. §1983; execution of an illegal search warrant and suppression of subsequent evidence found during the search; improper joinder of appellant's criminal cases.

Appellant also asks that we grant his belated petition for writ of prohibition. Appellant tendered a petition for writ of prohibition in this court to prevent his incarceration. However, the judgment of conviction had already been entered by the trial court and appellant's instant appeal was pending at the time he tendered the petition. As that petition was never filed, we do not consider any arguments set forth therein in the instant appeal.

court records at public expense. We decline to consider these issues on appeal because appellant failed to produce a record on appeal sufficient to demonstrate error.

It is the appellant's burden to produce a record sufficient to demonstrate error. *Johnson v. State*, 342 Ark. 357, 28 S.W.3d 286 (2000). *Pro se* appellants receive no special consideration on appeal. *Eliott v. State*, 342 Ark. 237, 27 S.W.3d 432 (2000). It is the appellant's responsibility to provide an adequate record for our review, and not the responsibility of anyone other than appellant. *Sullivan v. State*, 301 Ark. 352, 784 S.W.2d 155 (1990) (*per curiam*).

For the purposes of the instant appeal, the record as lodged by appellant is limited to the judgment and commitment order, the Rule 37.1 petition, the trial court's order, and the notice of appeal. Appellant has failed to include in the record, at a minimum, a transcript of the guilty plea hearing before the trial court for our review as appellant's complaints center on his request to withdraw his guilty plea. In fact, the record before us contains no transcript from any appearance before the trial court, although the circuit court clerk, in correspondence with appellant, twice directed him to contact the court reporter to obtain transcripts of any appearances in circuit court.

Additionally, the dockets included by appellant in his brief to this court as exhibits indicate that trial counsel filed a motion to suppress evidence, a motion to suppress a statement, a motion for joinder, a motion for discovery and a motion for identification. A guilty plea statement and departure report were also part of the record below, as well as numerous orders that each granted a continuance. However, none of these critical orders, pleadings or documents were included in the record on appeal.

Without a sufficient record on appeal pointing to specific factual errors that establish actual prejudice due to trial counsel's conduct or prosecutorial misconduct, we are unable to consider any allegations relating to the involuntariness of appellant's guilty plea. We are likewise unable to consider the merits of appellant's arguments of entitlement to a hearing on his petition for postconviction relief, to be appointed counsel or to proceed *in forma pauperis* and obtain transcripts and documents at public expense. Accordingly, we cannot say that the circuit court erred in

dismissing appellant's petition.

Affirmed.