

ARKANSAS SUPREME COURT

No. CACR 06-1064

DANIEL PLUNKETT
Petitioner

v.

STATE OF ARKANSAS
Respondent

Opinion Delivered February 5, 2009

PRO SE PETITION TO REINVEST
JURISDICTION IN TRIAL COURT TO
CONSIDER A PETITION FOR WRIT
OF ERROR CORAM NOBIS [CIRCUIT
COURT OF POINSETT COUNTY, CR
2003-224, CR 2003-232]

PETITION DENIED.

PER CURIAM

In 2004, petitioner Daniel Plunkett entered guilty pleas to possession of a controlled substance and delivery of a controlled substance. The State later filed a petition to revoke the suspended imposition of sentence as to one count and probation as to the other, and petitioner was sentenced to 240 months' imprisonment. The Arkansas Court of Appeals affirmed the judgment. *Plunkett v. State*, CACR 06-1064 (Ark. App. May 30, 2007). Petitioner unsuccessfully pursued relief under Arkansas Rule of Criminal Procedure 37.1. *See Plunkett v. State*, CR 08-180 (Ark. Mar. 20, 2008) (per curiam).

Petitioner has now filed this petition in which he requests permission to proceed in the trial court with a petition for writ of error coram nobis.¹ After a judgment has been affirmed on appeal, a petition filed in this court for leave to proceed in the trial court is necessary because the circuit court can entertain a petition for writ of error coram nobis only after we grant permission. *Dansby*

¹For clerical purposes, the instant petition was assigned the same docket number as the direct appeal.

v. State, 343 Ark. 635, 37 S.W.3d 599 (2001) (per curiam). For the writ to issue following the affirmance of a conviction, the petitioner must show a fundamental error of fact extrinsic to the record. *Larimore v. State*, 327 Ark. 271, 938 S.W.2d 818 (1997).

The writ is allowed only under compelling circumstances to achieve justice and to address errors of the most fundamental nature. *Pitts v. State*, 336 Ark. 580, 986 S.W.2d 407 (1999) (per curiam). A writ of error coram nobis is an extraordinarily rare remedy, more known for its denial than its approval. *Larimore v. State*, 341 Ark. 397, 17 S.W.3d 87 (2000). We have held that a writ of error coram nobis was available to address certain errors that are found in one of four categories: insanity at the time of trial, a coerced guilty plea, material evidence withheld by the prosecutor, or a third-party confession to the crime during the time between conviction and appeal. *Pitts*, 336 Ark. at 583, 986 S.W.2d at 409.

Petitioner alleges as grounds for relief that an amended judgment that was entered is invalid, and that the procedure in the revocation proceeding was invalid in that he was not provided with a statement setting forth the terms of the suspended imposition of sentence, no revocation petition was filed as to the suspended imposition of sentence, and the trial court failed to follow proper procedure during the hearing. Petitioner does not allege error within one of the four recognized categories of error. Nor does petitioner allege any error of fact that is extrinsic to the record. He does not, therefore, allege grounds sufficient to justify reinvesting jurisdiction in the trial court to consider a petition for writ of error coram nobis.

Petition denied.