

HAM v. STATE.

5018

351 S. W. 2d 428

Opinion delivered November 27, 1961.

1. CRIMINAL LAW — WRIT OF ERROR CORAM NOBIS. — The issue of whether a defendant has been coerced into pleading guilty to an offense may be raised by a petition for a writ of error *coram nobis*.
2. CRIMINAL LAW — WRIT OF ERROR CORAM NOBIS, REVIEW OF JUDGMENT PREVIOUSLY AFFIRMED.—A writ of error *coram nobis* lies for the purpose of obtaining review and correction of a judgment by the same court which rendered it; but when the judgment has been affirmed, the petitioner must have the consent of the Supreme Court before he can file the petition in the trial court.
3. CRIMINAL LAW — PETITION FOR WRIT OF ERROR CORAM NOBIS DENIED. — Where the petitioner did not appeal from a conviction of forgery and no record was presented from which a conclusion could be made as to whether he had been coerced into pleading guilty to that offense, his petition for writ of error *coram nobis* was denied.

Petition for writ of error *coram nobis*; petition denied.

John Luther Ham, pro se, for appellant.

Frank W. Wynne, Prosecuting Attorney, for appellee.

SAM ROBINSON, Associate Justice. Petitioner, John Luther Ham, has filed a petition in this Court for a writ of error *coram nobis*. He alleges that in December,

1955, he was coerced into signing a confession to the crime of forgery and further coerced into pleading guilty to that offense in the Dallas County, Arkansas, Circuit Court. He alleges that he was sentenced to three years in the Arkansas Penitentiary and after serving one year he was paroled but that his parole has now been revoked. It appears that he is at this time in a penitentiary at Springfield, Missouri, and that after completing his sentence there he will be turned over to Arkansas authorities to finish serving his sentence in the Arkansas penitentiary.

The issue of whether a defendant has been coerced into pleading guilty to an offense may be raised by a petition for a writ of error coram nobis. *State v. Hudspeth*, 191 Ark. 963, 88 S. W. 2d 858. But that case points out that a writ of error coram nobis lies for the purpose of obtaining a review and correction of a judgment *by the same court* which rendered it, unless, however, the judgment has been affirmed by this Court, in which event petitioner must have the consent of this Court before he can file the petition in the trial court. Ham did not appeal from the judgment rendered by the Dallas Circuit Court and therefore, of course, the judgment has not been affirmed here and we have no record from which we can reach a conclusion as to the facts.

Petition denied.

JOHNSON, J., not participating.