

SUPREME COURT OF ARKANSAS

No. 11-82

DANIEL CHAPPELL, JR.

APPELLANT

v.

RAY HOBBS

APPELLEE

Opinion Delivered May 12, 2011

PRO SE MOTIONS TO ATTACH
ADDENDUM TO REPLY BRIEF AND
FOR EXTENSION OF TIME TO FILE
REPLY BRIEF [JACKSON COUNTY
CIRCUIT COURT, CV 2010-48, HON.
HAROLD ERWIN, JUDGE]

APPEAL DISMISSED; MOTIONS MOOT.

PER CURIAM

In 2010, appellant Daniel Chappell, Jr., an inmate incarcerated in the Arkansas Department of Correction at the Grimes Unit in Jackson County, filed a pro se petition for writ of habeas corpus in the Jackson County Circuit Court. The court denied the petition, and appellant lodged an appeal from the order in this court.

On April 14, 2011, appellant filed the motions that are now before us, seeking leave to attach an addendum to his reply brief and an extension of time to file the reply brief. His address on the motions reflected that he has been transferred to another unit of the department, the Pine Bluff Unit in Jefferson County. We do not reach the merits of the motions and dismiss the appeal because the Jackson County Circuit Court can no longer grant the relief requested by appellant. *Waller v. Norris*, 2011 Ark. 168 (per curiam); *Buckhanna v. Hobbs*, 2011 Ark. 119 (per curiam).

An appeal of the denial of postconviction relief, including an appeal from an order that denied a petition for writ of habeas corpus, will not be permitted to go forward where it is

Cite as 2011 Ark. 220

clear that the appellant could not prevail. *Waller*, 2011 Ark. 168; *Buckhanna*, 2011 Ark. 119; *Davis v. State*, 2011 Ark. 6 (per curiam); *Lukach v. State*, 369 Ark. 475, 255 S.W.3d 832 (2007) (per curiam).

Any petition for writ of habeas corpus to effect the release of a prisoner is properly addressed to the circuit court in the county in which the prisoner is held in custody, unless the petition is filed pursuant to Act 1780 of 2001, codified at Arkansas Code Annotated §§ 16-112-201 to -208 (Repl. 2006), in which case the petition is properly filed pursuant to Arkansas Code Annotated § 16-112-201(a) in the court where the judgment of conviction was entered. Appellant, who is incarcerated by virtue of a judgment of conviction entered in the Washington County Circuit Court, did not invoke Act 1780. By the time appellant filed the instant motions, he was in custody in Jefferson County, where he is currently incarcerated. The records of the Department of Correction verify the change in location.

A circuit court does not have jurisdiction to release on a writ of habeas corpus a prisoner not in custody in that court's jurisdiction. *Waller*, 2011 Ark. 168; *Buckhanna*, 2011 Ark. 119; *Hill v. State*, 2010 Ark. 102 (per curiam); *Pardue v. State*, 338 Ark. 606, 999 S.W.2d 198 (1999) (per curiam) (citing *Mackey v. Lockhart*, 307 Ark. 321, 819 S.W.2d 702 (1991)). Even if appellant's petition had merit and the circuit court erred in dismissing it, appellant cannot now prevail on appeal. *Waller*, 2011 Ark. 168; *Buckhanna*, 2011 Ark. 119. Accordingly, the appeal is dismissed, and the motions are moot.

Appeal dismissed; motions moot.