

DIANE A/K/A VEDA MAE SLITTER *v.* ANDREW J.
PONDER

5-5854

479 S.W. 2d 567

Opinion delivered May 1, 1972

1. PROHIBITION—JURISDICTION, PROCEEDINGS & RELIEF—ADEQUACY OF OTHER REMEDY.—Prohibition does not lie unless the court is wholly without jurisdiction of the subject matter, or where there is no adequate remedy at law.
2. PROHIBITION—JURISDICTION, PROCEEDINGS & RELIEF—ADEQUACY OF OTHER REMEDY.—Petition for prohibition denied where the jurisdiction of the circuit judge to try accused for the offense of disturbing the peace was not affected by any deficiency in the affidavit for warrant, or the warrant, and petitioner, had she been convicted in circuit court, would have had a right of appeal.

Petition for writ of prohibition, Jackson Circuit Court; *Andrew J. Ponder*, Judge; petition denied.

Jackson County Legal Services, Inc. and *Monroe L. Bethea*, for petitioner.

Ray Thornton, Atty. Gen., by: *David Hodges*, Pros. Atty., and *Gene O'Daniel*, Asst. Atty. Gen., for respondent.

LYLE BROWN, Justice. Petitioner was charged in the Newport Municipal Court with the offense of disturbing the peace. She filed a motion to quash the affidavit for warrant of arrest and the warrant itself. The motions were overruled and she was convicted. She appealed to the Jackson County Circuit Court where she renewed her motions to quash. When they were overruled she filed in this court her petition for a writ of prohibition. Prohibition does not lie unless the court is wholly without jurisdiction of the subject matter, or where there is no adequate remedy by appeal or otherwise. *State ex rel Purcell v. Nelson*, 246 Ark. 210, 438 S.W. 2d 33 (1969).

The jurisdiction of the respondent to try the accused was not affected by any deficiency in the affidavit for warrant or the warrant itself. *Cassady v. State*, 249 Ark. 1040, 463 S.W. 2d 96 (1971); *Estes v. State*, 246 Ark. 1145, 442 S.W. 2d 221 (1969); *Perkins v. City of Little Rock*, 232 Ark. 739, 339 S.W. 2d 859 (1960). Finally, it cannot be questioned that petitioner, had she been convicted in circuit court, would have had a right to appeal.

We have not overlooked the citations of authority from federal jurisdictions. They deal mostly with search warrants. Others interpret the federal rules of criminal procedure. We are convinced that our cited holdings are not repugnant to any decision of the United States Supreme Court.

Petition denied.