

SUPREME COURT OF ARKANSAS

No. 10-325

TIMOTHY EDWARDS

APPELLANT

V.

RAY HOBBS, DIRECTOR,
ARKANSAS DEPARTMENT OF
CORRECTION

APPELLEE

Opinion Delivered September 8, 2011

PRO SE APPEAL FROM THE
LINCOLN COUNTY CIRCUIT
COURT, LCV 2009-129, HON. JODI
RAINES DENNIS, JUDGE

AFFIRMED.

PER CURIAM

Appellant Timothy Edwards was convicted in 2004 of one count each of aggravated robbery and theft of property and was sentenced to a term of life imprisonment. This court affirmed. *Edwards v. State*, 360 Ark. 413, 201 S.W.3d 909 (2005).

In 2010, appellant filed a pro se petition for writ of habeas corpus in the Lee County Circuit Court, which was the circuit court located in the county in which he was incarcerated. The circuit court denied his petition, and this appeal followed.

In his petition, appellant argued that the police lacked probable cause to arrest him, that the circuit court failed to rule on the probable-cause issue during a pretrial suppression hearing, and that, as a result, he is now being illegally detained. The circuit court denied appellant's petition, finding that appellant's claims were not the type allowed in a habeas proceeding, as he failed to allege or demonstrate a lack of jurisdiction or that the commitment order was invalid on its face.

The burden is on the petitioner in proceedings for a writ of habeas corpus to establish



that the circuit court lacked jurisdiction or that the commitment was invalid on its face; otherwise there is no basis for a finding that a writ of habeas corpus should issue. *Daniels v. Hobbs*, 2011 Ark. 192 (per curiam). Under our statute, a petitioner who does not allege his actual innocence and proceed under Act 1780 of 2001 must plead either the facial invalidity of the judgment or the lack of jurisdiction by the circuit court and make a showing by affidavit or other evidence of probable cause to believe that he is illegally detained. *Id.*; Ark. Code Ann. § 16-112-103(a)(1) (Repl. 2006).

It is insufficient to allege that an illegal arrest warrants habeas relief. This court has specifically held that an illegal arrest alone does not result in an invalid conviction. *Russell v. Norris*, 2009 Ark. 472 (per curiam); *Biggers v. State*, 317 Ark. 414, 878 S.W.2d 717 (1994). The circuit court's jurisdiction to try the accused does not depend on the validity of the arrest. *State v. Richardson*, 373 Ark. 1, 280 S.W.3d 20 (2008). Issues related to the validity of appellant's arrest are the type of factual issues that should be addressed at trial or on direct appeal. See *Grimes v. State*, 2010 Ark. 97. Accordingly, the circuit court correctly denied appellant's petition because he failed to raise a cognizable claim in that petition.

Affirmed.