

SUPREME COURT OF ARKANSAS

No. 10-1180

MATTHEW BOIVIN

APPELLANT

V.

RAY HOBBS, INTERIM DIRECTOR,
ARKANSAS DEPARTMENT OF
CORRECTION

APPELLEE

Opinion Delivered September 22, 2011

PRO SE APPEAL FROM THE
JEFFERSON COUNTY CIRCUIT
COURT, CV-2010-412, HON. JODI
RAINES DENNIS, JUDGE

AFFIRMED.

PER CURIAM

Appellant Matthew Boivin appeals from the circuit court's order denying his petition for writ of habeas corpus. In 1997, appellant entered a negotiated plea of guilty to first-degree murder and was sentenced to forty years' imprisonment. In 2010, appellant filed in the county in which he was incarcerated a petition for writ of habeas corpus pursuant to Arkansas Code Annotated sections 16-112-101 to -123 (Repl. 2006). The circuit court denied the petition, and appellant brings the instant appeal. We affirm the circuit court's order.

We do not reverse a denial of postconviction relief unless the circuit court's findings are clearly erroneous. *Henson v. Norris*, 2009 Ark. 363 (per curiam). A finding is clearly erroneous when, although there was evidence to support it, the appellate court, after reviewing the entire evidence is left with the definite and firm conviction that a mistake has been committed. *Id.*

The burden is on the petitioner in a petition for writ of habeas corpus to establish that the trial 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 innocence¹ must plead either the facial invalidity of the judgment or the lack of jurisdiction by the trial court and make a “showing by affidavit or other evidence [of] probable cause to believe” that he is illegally detained. Ark. Code Ann. § 16-112-103(a)(1); *Tryon v. Hobbs*, 2011 Ark. 76, at 2 (per curiam).

In his petition, appellant asserted that the trial court lacked jurisdiction in his case and that he was being held pursuant to an illegal conviction that was illegal on its face. In support thereof, appellant raised the following alleged violations of the rules of criminal procedure and his constitutional rights: he was illegally seized for questioning by police; he was not properly Mirandized; he was arrested without probable cause; he was denied a hearing on, and suppression of, an illegal confession; his confession was the result of a promise of leniency; his guilty plea was rendered involuntarily. Appellant’s claim that his guilty plea was involuntary does not warrant habeas relief, however, as allegations of an involuntary plea or improper plea procedures do not raise a question of a void or illegal sentence such as may be addressed in a habeas corpus proceeding. *Friend v. Norris*, 364 Ark. 315, 219 S.W.3d 123 (2005) (per curiam).

Nor do the remainder of appellant’s claims warrant relief. In determining whether the denial of a petition for writ of habeas corpus was proper, this court must look to the invalidity on the face of the judgment. *Hill v. Norris*, 2010 Ark. 287 (per curiam). While appellant attempts to couch his claims as defects that result in an invalid judgment or a lack of jurisdiction,

¹A petitioner who seeks a writ of habeas corpus and alleges actual innocence must do so in accordance with Act 1780 of 2001, codified as Arkansas Code Annotated sections 16-112-201 to -208 (Repl. 2006). Ark. Code Ann. section 16-112-103(a)(2).



the bases for the majority of his claims are clearly issues that should have been raised on appeal or in a petition under Arkansas Rule of Criminal Procedure 37.1 and are not cognizable in a habeas proceeding. A habeas corpus proceeding does not afford a prisoner an opportunity to retry his case; nor is it a means to address mere trial error or reargue issues settled at trial or on appeal, or a substitute for raising issues on direct appeal of the judgment. *Grimes*, 2010 Ark. 97 (per curiam). Even if a petitioner can establish that there was an error at trial, mere trial error would not take away the court's personal or subject-matter jurisdiction. *Anderson v. State*, 2011 Ark. 35 (per curiam). A court with personal and subject-matter jurisdiction over the defendant in a criminal proceeding has authority to render judgment. *Id.*

On a final note, we decline to address appellant's claim in his appellate brief that his due-process rights were violated by the circuit court's failure to summon the State until two days before the circuit court's order denying his petition. Aside from one bare citation addressing due process in general, appellant has failed to cite to any authority for his proposition. This court will not consider arguments, even constitutional ones, that are not supported by legal authority or convincing argument and will not address arguments when it is not apparent without further research that the argument is well taken. *Henderson v. State*, 2010 Ark. 30 (per curiam).

Because appellant fell short of establishing that the circuit court in his case lacked jurisdiction or that the commitment was invalid on its face, there was no basis for a finding that a writ of habeas corpus should issue. We therefore affirm the circuit court's order.

Affirmed.