

SUPREME COURT OF ARKANSAS

No. 11-629

KE'ONDRA MONTREL CHESTANG
APPELLANT

V.

RAY HOBBS
APPELLEE

Opinion Delivered September 29, 2011

PRO SE MOTIONS FOR RULE ON
CLERK AND FOR EXTENSION OF
TIME TO FILE BRIEF [LINCOLN
COUNTY CIRCUIT COURT, LCV 2011-
07, HON. JODI RAINES DENNIS
JUDGE]

APPEAL DISMISSED; MOTIONS MOOT.

PER CURIAM

On January 25, 2011, appellant Ke'ondra Montrel Chestang, an inmate incarcerated in the Arkansas Department of Correction (ADC) at a facility in Lincoln County, filed a pro se petition for writ of habeas corpus in the Lincoln County Circuit Court. The court denied the petition, and appellant lodged an appeal from the order in this court.

On July 28, 2011, appellant filed the motions that are now before us, seeking an order directing the circuit clerk in Lincoln County to provide him with certain documents for the addendum to his brief and an extension of time in which to file the brief. His address on the motions reflected that he had been transferred to an ADC facility located in Jefferson County.

We do not reach the merits of the motions and dismiss the appeal because the Lincoln 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



Cite as 2011 Ark. 404

habeas corpus, will not be permitted to go forward where it is 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.¹ 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.

¹There is an exception for petitioners claiming the right to be released on a writ of habeas corpus on the ground of actual innocence under Act 1780 of 2001, codified at Arkansas Code Annotated sections 16-112-201 to -208 (Repl. 2006). Pursuant to Arkansas Code Annotated section 16-112-201(a), such petitions are filed in the court where the judgment of conviction was entered. Appellant is incarcerated by virtue of judgments of conviction entered in the Columbia County Circuit Court and the Lee County Circuit Court.