

SUPREME COURT OF ARKANSAS

No. 10-196

JESSE JAMES MANNING
APPELLANT

v.

LARRY NORRIS, DIRECTOR,
ARKANSAS DEPARTMENT OF
CORRECTION
APPELLEE

Opinion Delivered October 13, 2011

PRO SE APPEAL FROM THE
JEFFERSON COUNTY CIRCUIT
COURT, CV 2009-879, HON. JODI
RAINES DENNIS, JUDGE

AFFIRMED.

PER CURIAM

Appellant Jesse James Manning appeals from an order of the Jefferson County Circuit Court dismissing his pro se petition for declaratory judgment and writ of mandamus. For reversal, appellant argues that the circuit court erred in its interpretation of our habitual-offender and declaratory-judgment statutes. We affirm.

A Columbia County jury found appellant guilty of delivery of cocaine and sentenced him as a habitual offender to a forty-year term of imprisonment and a \$1.00 fine. We affirmed. *Manning v. State*, 318 Ark. 1, 883 S.W.2d 455 (1994). On August 31, 2009, appellant filed a petition for declaratory judgment and a writ of mandamus. In his petition, appellant requested that the circuit court declare that, despite his convictions for at least eight felonies, he was only a third-time offender and was eligible for parole. Appellant also asked the circuit court to issue a writ of mandamus to the Arkansas Department of Correction ordering officials to treat him as being eligible for parole. The State filed a response and



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moved to dismiss the petition and writ as a matter of law. Appellant filed a response. On December 4, 2009, the circuit court entered an order granting the State's motion and dismissing the petition with prejudice. From this order, appellant brings his appeal.

We have held that a criminal defendant may not use a declaratory-judgment action or a suit for an extraordinary writ for the purpose of challenging a criminal conviction, sentence, or parole eligibility. See *Johnson v. State*, 340 Ark. 413, 12 S.W.3d 203 (2000) (holding that an attack on appellant Johnson's conviction was not cognizable in a suit for declaratory judgment or mandamus). A criminal defendant is required to raise any claims regarding his sentence and conviction in the circuit court or on direct appeal and may not raise them in a collateral civil proceeding at a later time. *Williams v. State*, 346 Ark. 54, 56 S.W.3d 360 (2001). A declaratory-relief action is not a substitute for an ordinary cause of action. *Davis v. Hobbs*, 2011 Ark. 249 (per curiam); *McKinnon v. Norris*, 366 Ark. 404, 231 S.W.3d 725 (2006) (per curiam). Further, a writ of mandamus cannot be used by a pro se petitioner as a substitute for an appeal. See *Gran v. Hale*, 294 Ark. 563, 745 S.W.2d 129 (1988). Based upon this well-established case law, appellant's claims regarding his sentence and parole eligibility under the circumstances here were direct challenges to the judgment of conviction and were not cognizable in a suit for declaratory judgment and writ of mandamus. For this reason, we affirm.

Affirmed.