

SUPREME COURT OF ARKANSAS

No. CR 12-676

JAMES E. CLEMONS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered January 24, 2013

APPEAL FROM THE UNION
COUNTY CIRCUIT COURT, CR 08-156,
HON. HAMILTON H. SINGLETON,
JUDGE

REVERSED AND REMANDED.

PER CURIAM

Pursuant to a judgment affirmed by this court, appellant James E. Clemons, convicted in the Union County Circuit Court on a charge of capital murder, is incarcerated in the Arkansas Department of Correction under a sentence of life imprisonment without the possibility of parole. *See Clemons v. State*, 2010 Ark. 337, 369 S.W.3d 710. On April 9, 2012, appellant filed in the trial court a petition for writ of habeas corpus that was denied by the court for lack of jurisdiction. Appellant lodged this appeal, and we have determined that the court erred in finding that it lacked jurisdiction. We accordingly reverse and remand for the trial court to consider the petition.

The State concedes error by the circuit court. In his first point on appeal, appellant contends that the court incorrectly dismissed the petition by failing to determine that he sought relief under Act 1780 of 2001 Acts of Arkansas, as amended by Act 2250 of 2005 and codified as Arkansas Code Annotated sections 16-112-201 to -208 (Repl. 2006). A cursory review of the petition clearly indicates that it sought relief under Act 1780; the heading cites the statutes, appellant alleged his actual innocence in the second paragraph of the petition, and the prayer for

relief sought scientific testing.

Arkansas Code Annotated section 16-112-103 provides that the procedure for those who allege actual innocence and seek the writ are those set forth in Act 1780. Ark. Code Ann. § 16-112-103(a)(2). Arkansas Code Annotated section 16-112-201 vests jurisdiction in the trial court, stating that an action is commenced “in the court in which the conviction was entered.” Ark. Code Ann. § 16-112-201(a).

The trial court here dismissed the petition based on its finding that appellant was not incarcerated within the jurisdiction of the court. It is true that a petition for the writ of habeas corpus is properly addressed to the circuit court in the county in which the petitioner is held in custody, unless the petition is filed pursuant to Act 1780 of 2001. *Davis v. Hobbs*, 2012 Ark. 167 (per curiam). Because appellant filed a petition that sought relief under Act 1780, his petition was appropriately filed within the jurisdiction of the court in which he had been convicted, without regard to the place of his incarceration. The trial court did have jurisdiction to consider appellant’s petition, and it was error for the court to dismiss the petition without further consideration.

Reversed and remanded.

James E. Clemons, pro se appellant.

Dustin McDaniel, Att’y Gen., by: *Brad Newman*, Ass’t Att’y Gen., for appellee.