

SUPREME COURT OF ARKANSAS

No. CV-13-571

JOHN RICHARD LUKACH
APPELLANT

V.

RAY HOBBS, DIRECTOR, ARKANSAS
DEPARTMENT OF CORRECTION
APPELLEE

Opinion Delivered March 6, 2014

PRO SE MOTION FOR EXPANSION
OF PAGE LIMIT FOR BRIEF AND
MOTION FOR EXTENSION OF TIME
TO FILE BRIEF; MOTION FOR
HEARING AND FOR APPOINTMENT
OF COUNSEL; MOTION TO ATTACH
DIRECT-APPEAL BRIEFS AS
EXHIBITS; AMENDED MOTION FOR
EXPANSION OF PAGE LIMIT FOR
BRIEF [JEFFERSON COUNTY
CIRCUIT COURT, NO. 35CV-13-12]

HONORABLE JODI RAINES DENNIS,
JUDGE

APPEAL DISMISSED; MOTIONS
MOOT.

PER CURIAM

On January 8, 2013, appellant John Richard Lukach filed a pro se petition for writ of habeas corpus in the Jefferson County Circuit Court where he was incarcerated. The circuit court dismissed the petition, and appellant lodged an appeal from the order in this court. Now before us are appellant's motions for expansion of page limit for brief and extension of time to file brief, for hearing and appointment of counsel, and to attach direct-appeal briefs as exhibits, as well as his amended motion for expansion of page limit.

We do not reach the merits of the motions and dismiss the appeal because the Jefferson County Circuit Court can no longer grant the relief requested by appellant. *See Chestang v. Hobbs*, 2011 Ark. 404 (per curiam). An appeal of the denial of postconviction relief, including an appeal



Cite as 2014 Ark. 106

from an order that denied a petition for writ of habeas corpus, will not be permitted to go forward where it is clear that the appeal is without merit. *Glaze v. State*, 2013 Ark. 458 (per curiam); *Wilencewicz v. Hobbs*, 2012 Ark. 230 (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, unless the petition is filed pursuant to Act 1780 of 2001. *Wilencewicz*, 2012 Ark. 230; *Davis v. Hobbs*, 2012 Ark. 167 (per curiam). Appellant's petition was not filed under Act 1780, and the public records of the Arkansas Department of Correction confirm that appellant is now incarcerated in a facility in Lincoln County.

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. *Fields v. State*, 2013 Ark. 471 (per curiam); *Chestang*, 2011 Ark. 404. When a prisoner who seeks habeas relief is transferred to a facility in a different county, the circuit court in the county where the prisoner was previously incarcerated no longer has jurisdiction to issue and make a returnable writ. *Fields*, 2013 Ark. 471; *Wilencewicz*, 2012 Ark. 230. Although the Jefferson County Circuit Court may have retained subject-matter jurisdiction, it does not retain personal jurisdiction over the person in whose custody the prisoner is detained, and an order by that court will not act to effect his release. *Davis v. Hobbs*, 2013 Ark. 378 (per curiam). This court will dismiss an appeal of the denial of a petition for writ of habeas corpus when the appellant is no longer incarcerated in the county where his petition was filed because the court can no longer grant the relief sought. *Id.*

Appeal dismissed; motions moot.

John Richard Lukach, pro se appellant.

No response.