

ARKANSAS SUPREME COURT

No. CR-03-1181

ABRAHAM GRANT

PETITIONER

V.

STATE OF ARKANSAS

RESPONDENT

Opinion Delivered April 9, 2015

PRO SE THIRD PETITION TO REINVEST JURISDICTION IN THE TRIAL COURT TO CONSIDER A PETITION FOR WRIT OF ERROR CORAM NOBIS [PHILLIPS COUNTY CIRCUIT COURT NO. 54CR-01-272]

PETITION DENIED.**PER CURIAM**

In 2003, petitioner Abraham Grant was found guilty by a jury of capital murder and battery in the first degree. An aggregate sentence of life imprisonment without parole was imposed. We affirmed. *Grant v. State*, 357 Ark. 91, 161 S.W.3d 785 (2004).

In 2007, petitioner filed in the trial court a petition for postconviction relief that was denied, and petitioner appealed to this court. We dismissed the appeal. *Grant v. State*, CR-07-784 (Ark. Feb. 17, 2008) (unpublished per curiam).

In 2010, petitioner requested that this court reinvest jurisdiction in the trial court so that he could proceed with a petition for writ of error coram nobis. The petition was denied. *Grant v. State*, 2010 Ark. 286, 365 S.W.3d 894 (per curiam). In 2014, petitioner filed a second such petition, which we also denied. *Grant v. State*, 2014 Ark. 466 (per curiam).

Now before us is petitioner's third petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis. The precise grounds for the petition are unclear, but petitioner appears to allege that the trial court in his case lacked subject-matter

Cite as 2015 Ark. 159

jurisdiction and that, as a result, it did not have jurisdiction to consider his petition for postconviction relief pursuant to Rule 37.1. He also contends that his case presented a constitutional issue so novel that his attorney should not be considered remiss in failing to raise it. Petitioner further argues that one of his attorneys in the trial court was relieved as counsel because there was a conflict of interest and thus the attorney was unable to raise the issue of subject-matter jurisdiction and that unspecified evidence was withheld by “state court officials on this claim.”

A writ of error coram nobis is an extraordinarily rare remedy, more known for its denial than its approval. *Howard v. State*, 2012 Ark. 177, 403 S.W.3d 38. The writ is allowed only under compelling circumstances to achieve justice and to address errors of the most fundamental nature. *McDaniels v. State*, 2012 Ark. 465 (per curiam). We have held that a writ of error coram nobis is available to address certain errors that are found in one of four categories: insanity at the time of trial, a coerced guilty plea, material evidence withheld by the prosecutor, or a third-party confession to the crime during the time between conviction and appeal. *Charland v. State*, 2013 Ark. 452 (per curiam); *Pitts v. State*, 336 Ark. 580, 986 S.W.2d 407 (1999) (per curiam). The function of the writ is to secure relief from a judgment rendered while there existed some fact that would have prevented its rendition if it had been known to the circuit court and which, through no negligence or fault of the defendant, was not brought forward before rendition of judgment. *Mooney v. State*, 2014 Ark. 453, 447 S.W.3d 121 (per curiam). The petitioner has the burden of demonstrating a fundamental error of fact extrinsic to the record. *Williams v. State*, 2011 Ark. 541 (per curiam). Coram-nobis proceedings are attended by a strong presumption

Cite as 2015 Ark. 159

that the judgment of conviction is valid. *Roberts v. State*, 2013 Ark. 56, 425 S.W.3d 771; *Penn v. State*, 282 Ark. 571, 670 S.W.2d 426 (1984). Claims of ineffective assistance of counsel, including assertions that the petitioner's attorney operated under a conflict of interest, are outside the purview of a coram-nobis proceeding. *Nelson v. State*, 2014 Ark. 91, 431 S.W.3d 852.

Petitioner here has established no basis for the writ because he has failed entirely to offer any factual substantiation from which it can be determined that there is a ground for the writ. Such substantiation is required before this court will grant leave to proceed in the trial court with a coram-nobis petition. *Mackey v. State*, 2014 Ark. 491 (per curiam). With respect to petitioner's statement that state court officials withheld evidence, it cannot be discerned what evidence was alleged to have been hidden or even if petitioner is alleging that evidence was withheld from his trial. Again, the function of the writ is to secure relief from a judgment rendered while there existed some fact that would have prevented its rendition if it had been known to the trial court and which, through no negligence or fault of the defendant, was not brought forward before rendition of judgment. *McFerrin v. State*, 2012 Ark. 305 (per curiam). Petitioner has not met his burden of demonstrating a fundamental error of fact extrinsic to the record in his case.

Petition denied.