

SUPREME COURT OF ARKANSAS

No. 09-413

JAMES MOSLEY a/k/a JAMES MOSELY
Appellant

v.

LARRY NORRIS, DIRECTOR,
ARKANSAS DEPARTMENT OF
CORRECTION
Appellee

Opinion Delivered December 16, 2010

PRO SE APPEAL FROM THE
CHICOT COUNTY CIRCUIT
COURT, CV 2008-73, HON.
ROBERT BYNUM GIBSON, JR.,
JUDGE

AFFIRMED.

PER CURIAM

In 2008, appellant James Mosley, also known as James Mosely, filed a petition for writ of habeas corpus in the circuit court of the county in which he is incarcerated. The circuit court denied the petition, and appellant brings this appeal. On appeal, as in his petition, appellant contends that the trial court was without jurisdiction to impose suspended imposition of sentence in his case. He also contends that the trial court ordered the case be nolle prossed and that the court was then without jurisdiction to revoke the suspended imposition of sentence and impose a prison term. The circuit court did not err in declining to issue the writ.

Appellant has raised his claim concerning the trial court's lack of jurisdiction to impose a suspended imposition of sentence previously. *See Mosley v. State*, CR 06-694 (Ark. June 7, 2007) (unpublished per curiam). Because the merits of the claim were addressed and the claim was adjudicated, resolution of that issue is settled by the law-of-the-case doctrine. *Cloird v. State*, 252 Ark. 190, 99 S.W.3d 419 (2003); *see also Jackson v. State*, 2009 Ark. 572

Cite as 2010 Ark. 501

(per curiam). The doctrine dictates that an issue raised and concluded in a prior appeal decision may not be revisited in a subsequent appeal as the matter becomes res judicata. *Hill v. State*, 2010 Ark. 102 (per curiam).

To the extent that appellant raised a new claim that the trial court was without jurisdiction to revoke the suspended imposition of sentence because the case had been nolle prossed, his argument is also without merit. Considering the order of nolle prosequi taken in context with the other documents in the record, appellant has not shown that the order was in this case intended to dismiss the original charge of possession of a controlled substance with intent to deliver. The order referenced a new plea and appeared to have been intended to dismiss the pending petitions for revocation, rather than the original charge. Because the original judgment imposing the suspended sentence was still in effect, the trial court retained jurisdiction to hear the 2005 petition for revocation. The court had the authority to consider the petition for revocation under Arkansas Code Annotated § 5-4-309 (Repl. 1997).

Unless a petitioner can show that the trial court lacked jurisdiction or that the commitment was invalid on its face, there is no basis for a finding that a writ of habeas corpus should issue. *McCullough v. State*, 2010 Ark. 394 (per curiam). Appellant's petition for the writ did not state facts sufficient to support a valid issue raising either a lack of jurisdiction by the trial court or that the judgment was invalid on its face. The circuit court therefore did not err in denying the petition for the writ. Accordingly, we affirm the denial of the petition seeking the writ.

Affirmed.