

Cite as 2018 Ark. 251

**SUPREME COURT OF ARKANSAS**

No. CR-18-417

ROLANDIS CHATMON

**Opinion Delivered:** August 2, 2018

PETITIONER

PETITION FOR WRIT OF  
MANDAMUS

V.

STATE OF ARKANSAS

HONORABLE CHARLES E.  
CLAWSON, JR., JUDGE

RESPONDENT

CONCURRING OPINION.

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**JOSEPHINE LINKER HART, Associate Justice**

While I agree with the majority’s disposition of this matter, I write separately to address the fact that various proceedings related to this matter have been conducted in the circuit court.

Chatmon seeks a writ of mandamus compelling the circuit court to issue specific findings as to why it is denying Chatmon’s “Motion for New Trial Based upon newly Discovered Evidence.” The underlying basis for Chatmon’s motion was that he seeks a new trial because (1) the prosecution failed to disclose to the defense both a police interview and a prior conviction of Monette Solomon, one of the prosecution’s key witnesses who testified against Chatmon, and (2) the judge who presided over his trial had actual bias against Chatmon. Chatmon’s motion also invokes article 2, section 13 of the Arkansas Constitution, which guarantees each person “a certain remedy in the laws for all injuries or wrongs he may receive in his person, property or character[.]” The circuit court’s denial of

Chatmon's motion comes after the circuit court ordered the State to turn over the recorded interview of Solomon; the record suggests that Chatmon now has a copy of the recorded interview in his possession.

Chatmon's petition is properly denied because the circuit court does not yet appear to have jurisdiction over his claim. Rules 33 and 37 of the Arkansas Rules of Criminal Procedure contemplate scenarios in which it might be appropriate to file a motion for a new trial based upon newly discovered evidence, but motions brought pursuant to those rules must be filed shortly after the dates of conviction or the issuance of the mandate, respectively; in Chatmon's case, these dates are long past. Furthermore, Ark. Code Ann. § 16-112-201 et seq. contemplates a new trial for newly discovered scientific evidence; however, there is nothing scientific or technological about the newly discovered evidence Chatmon identifies in his motion, and the evidence's discovery was in no way predicated upon any recent scientific or technological development, as is required by the statute.

While the prosecution's failure to disclose evidence favorable to the accused (i.e., a "Brady violation") is certainly cognizable in the context of error coram nobis proceedings, a circuit court is without jurisdiction to consider such an argument unless the petitioner first obtains leave of this court by filing a viable petition for writ of error coram nobis. *Howard v. State*, 2012 Ark. 177, 403 S.W.3d 38; *Echols v. State*, 354 Ark. 414, 125 S.W.3d 153 (2003). This court will grant such permission only when it appears the proposed attack on the judgment is meritorious. *Id.* In making such a determination, we look to the reasonableness of the allegations of the petition and to the existence of the probability of the truth thereof. *Id.* Chatmon has not yet filed such a petition in this court, although he may

or may not be in a better position to do so now that he has obtained a copy of the Solomon interview. If Chatmon files such a petition, this court will consider his argument at that juncture, but by my reading of the law, the circuit court has been and continues to be without jurisdiction to entertain this matter without leave of this court.

I concur.