

SUPREME COURT OF ARKANSAS

No. 09-85

FREDERICK MARKS
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered December 9, 2010

PRO SE APPEAL FROM THE LEE
COUNTY CIRCUIT COURT, CV
2008-166, HON. L.T. SIMES II, JUDGE

AFFIRMED.

PER CURIAM

Appellant Frederick Marks, who is incarcerated in the Arkansas Department of Correction, appeals the denial of a petition filed for writ of habeas corpus under Arkansas Code Annotated § 16-112-101 to -123 (Repl. 2006), in the circuit court of the county in which appellant is incarcerated. In the petition, appellant alleged that the trial court did not have jurisdiction to accept his guilty plea or sentence him on a charge of aggravated robbery because the trial court failed to establish a factual basis for the plea and that the resulting conviction was void.¹ The circuit court denied relief, and we affirm the decision.

The claim that appellant raised in his petition is not one cognizable in a petition for habeas corpus relief. *Friend v. State*, 364 Ark. 315, 219 S.W.3d 123 (2005) (per curiam). A writ of habeas corpus is proper when a judgment of conviction is invalid on its face or when a circuit court lacked jurisdiction over the cause. *Id.* at 316, 219 S.W.3d at 125. Although

¹ The judgment reflects that appellant was also convicted on a charge of possession of a firearm by a felon, but appellant does not contest the judgment as to that charge.

we treat allegations of void or illegal sentences as issues of subject-matter jurisdiction, the type of factual inquiry necessary for an issue that concerns the factual basis for a plea is one that goes beyond the face of the commitment and is not the kind of inquiry to be addressed by a proceeding for the writ. *Id.* at 317, 219 S.W.3d at 125. Appellant did not state a cognizable claim in the petition, and the circuit court did not err in denying the petition.² Since appellant has failed to show that the judgment of conviction was invalid on its face or that the circuit court lacked jurisdiction, the circuit court appropriately determined that the writ should not issue. *Id.* Accordingly, we affirm the denial of habeas relief.

Affirmed.

² The State asserts in its brief that the record is not sufficient because it contains no certified copy of the transcript from the plea hearing. The record is sufficient for our review because no reference to the plea hearing is required.