

SUPREME COURT OF ARKANSAS

No. 10-1079

CONNEL BUCKHANNA
Appellant

v.

RAY HOBBS
Appellee

Opinion Delivered March 17, 2011

PRO SE MOTION FOR WRIT OF
CERTIORARI TO COMPLETE THE
RECORD [LEE COUNTY CIRCUIT
COURT, CV 2010-87, HON.
RICHARD L. PROCTOR, JUDGE]

APPEAL DISMISSED; MOTION
MOOT.

PER CURIAM

In 2010, appellant Conneal Buckhanna, an inmate incarcerated in the Arkansas Department of Correction at the East Arkansas Regional Unit in Lee County, filed a pro se petition for writ of habeas corpus in the Lee County Circuit Court. The court denied the petition, and, on August 2, 2010, appellant filed a notice of appeal that reflected that he had been transferred to another unit of the department, the Delta Regional Unit in Chicot County. Appellant has lodged an appeal of the order in this court, and he now seeks by pro se motion a writ of certiorari to supplement the record. We do not reach the merits of the motion and dismiss the appeal because the Lee County Circuit Court can no longer grant the relief requested by appellant.

An appeal of the denial of postconviction relief, including an appeal from an order that denied a petition for writ of habeas corpus, will not be permitted to go forward where it is

Cite as 2011 Ark. 119

clear that the appellant could not prevail. *Davis v. State*, 2011 Ark. 6 (per curiam); *Lukach v. State*, 369 Ark. 475, ___ S.W.3d ___ (2007) (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, codified at Arkansas Code Annotated §§ 16-112-201 to -208 (Repl. 2006), in which case the petition is properly filed pursuant to Arkansas Code Annotated § 16-112-201(a) in the court where the judgment of conviction was entered. Appellant, who is incarcerated by virtue of multiple judgments of conviction entered in the Pulaski County Circuit Court, did not invoke Act 1780. By the time appellant filed his notice of appeal, he was in custody in Chicot County, where he is currently incarcerated. The Department of Correction records verify the change in location.

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. *Hill v. State*, 2010 Ark. 102 (per curiam); *Pardue v. State*, 338 Ark. 606, 999 S.W.2d 198 (1999) (per curiam) (citing *Mackey v. Lockhart*, 307 Ark. 321, 819 S.W.2d 702 (1991)). Even if appellant's petition had merit and the circuit court erred in dismissing it, appellant cannot now prevail on appeal. Accordingly, the appeal is dismissed, and the motion for a writ to supplement the record is moot.

Appeal dismissed; motion moot.