

Cite as 2019 Ark. 39
SUPREME COURT OF ARKANSAS
No. CR-18-477

SAMUEL JAY LOVE

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered: February 14, 2019

PRO SE APPEAL FROM THE JOHNSON
COUNTY CIRCUIT COURT
[NO. 36CR-16-210]

HONORABLE WILLIAM M. PEARSON,
JUDGE

AFFIRMED.

RHONDA K. WOOD, Associate Justice

Samuel Jay Love appeals the dismissal of his petition for writ of error coram nobis. He primarily contends the circuit court erred in determining that his allegation that his attorney promised to help him get a pardon if he pleaded guilty was insufficient to meet the burden of proving he was coerced. Because we find the circuit court did not abuse its discretion, we affirm.

Love pleaded guilty on September 1, 2017, to first-degree murder, battery in the first degree, and aggravated assault, and was sentenced by the circuit court on September 6, 2017, to an aggregate sentence of 480 months' imprisonment in the Arkansas Department of Correction. In exchange, for his guilty plea, the state did not pursue the enhancement provisions of Arkansas Code Annotated § 16-92-120 and agreed to run his sentences concurrently. Love filed a petition for writ of error coram nobis in the trial court alleging

that his guilty plea had been coerced and the circuit court denied his petition. Love appealed.

On appeal, this court's review is whether the circuit court abused its discretion in denying the petition for writ of error coram nobis. *Nelson v. State*, 2014 Ark. 91, at 4, 431 S.W.3d 852, 854. The presumption is that the judgment of conviction is valid. *Gray v. State*, 2018 Ark. 79, 540 S.W.3d 658. Love's petition for writ contended his guilty plea was coerced. A coerced guilty plea is one of the grounds for granting an error coram nobis petition. *Nelson*, 2014 Ark. 91, at 3, 431 S.W.3d at 854.

On appeal, Love contests the trial court's findings that his allegation of coercion did not rise to the "level of coercion" that is required in the context of a writ of coram nobis and if anything it was more akin to an ineffective assistance of counsel claim.¹ Factually, Love argued that his attorney stated that the "best way to go about this situation was to take the charge and get a pardon." On appeal, Love argues that this is not a case of "bad advice but of malicious intent[.]"

The circuit court's order indicates, and the transcript of Love's plea and sentencing hearings confirms, that Love entered his plea and then five days later was sentenced. Love acknowledged at sentencing that his guilty plea was intelligently and voluntarily made and

¹Love attempts to raise an additional argument on appeal that was not included in his petition below. This court will not address new arguments raised for the first time on appeal or consider factual substantiation added to bolster allegations made below. *Smith v. State*, 2017 Ark. 236, 523 S.W.3d 354.

that he did not know of any reason why his agreed-upon sentences should not have been imposed.

This court has held that, to rise to the level of coercion to warrant issuance of the writ, allegations that a plea was coerced must demonstrate the “compulsion of a free agent by physical, moral, or economic force or threat of physical force.” *Ramirez v. State*, 2018 Ark. 32, at 4, 536 S.W.3d 614, 617. Love made no claim that he was innocent or that his attorney coerced him through fear, threats of mob violence, or that he was subject to duress-claims this court has previously recognized. *Nelson*, 2014 Ark. 91, at 4, 431 S.W.3d at 855.

We find that the circuit court did not abuse its discretion in denying the writ of error coram nobis as Love did not plead facts sufficient to show coercion. The circuit court is correct that ineffective-assistance-of-counsel claims are not cognizable in error coram nobis proceedings. *Green v. State*, 2016 Ark. 386, 502 S.W.3d 524.

Affirmed.

Samuel J. Love, pro se appellant.

Leslie Rutledge, Att’y Gen., by: *Jason Michael Johnson*, Ass’t Att’y Gen., for appellee.