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SUPREME COURT OF ARKANSAS
No. CR-16-830

JAMES ELIJAH WEST

PETITIONER

V.

STATE OF ARKANSAS

RESPONDENT

Opinion Delivered May 2, 2019

PRO SE PETITION TO REINVEST
JURISDICTION IN THE TRIAL
COURT TO CONSIDER A PETITION
FOR WRIT OF ERROR CORAM
NOBIS
[GARLAND COUNTY CIRCUIT
COURT, NO. 26CR-14-711]

PETITION DENIED.

JOHN DAN KEMP, Chief Justice

Pending before this court is a pro se petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis filed by petitioner James Elijah West.

West was convicted of aggravated robbery and first-degree battery and was sentenced to an aggregate term of 360 months' imprisonment. The Arkansas Court of Appeals affirmed. *West v. State*, 2017 Ark. App. 416, 530 S.W.3d 355. Because West's claims are largely based on allegations that challenge the sufficiency of the evidence supporting his conviction, we deny his request to proceed in the trial court with a petition for error coram nobis relief.

The petition for leave to proceed in the trial court is necessary because the trial court can entertain a petition for writ of error coram nobis after a judgment has been affirmed on appeal only after we grant permission. *Roberts v. State*, 2013 Ark. 56, 425 S.W.3d 771. A writ of error coram nobis is an extraordinarily rare remedy. *Id.* Coram nobis proceedings are attended by a strong presumption that the judgment of conviction is valid. *Id.*; *Westerman v. State*, 2015 Ark. 69, 456 S.W.3d 374. The function of the writ is to secure relief from a judgment rendered while there existed some fact that would have prevented its rendition if it had been known to the trial court and which, through no negligence or fault of the defendant, was not brought forward before rendition of the judgment. *Roberts*, 2013 Ark. 56, 425 S.W.3d 771. The petitioner has the burden of demonstrating a fundamental error of fact extrinsic to the record. *Id.*

The writ is allowed only under compelling circumstances to achieve justice and to address errors of the most fundamental nature. *Id.* A writ of error coram nobis is available for addressing certain errors that are found in one of four categories: (1) insanity at the time of trial, (2) a coerced guilty plea, (3) material evidence withheld by the prosecutor, or (4) a third-party confession to the crime during the time between conviction and appeal. *Id.*; *Howard v. State*, 2012 Ark. 177, 403 S.W.3d 38.

In his petition for leave to reinvest jurisdiction for coram nobis proceedings, West contends that the testimony of his accomplices was patently false and that their testimony was not sufficiently corroborated in that, according to West, the backpack and cell phone that independently connected West to the crimes did not belong to him but belonged to

one of the accomplices who had testified against West. Accordingly, West contends that he was denied due process when the trial court refused to direct a verdict in his favor despite the allegedly dubious testimony and evidence offered in support of West's guilt. West further contends that his appellate attorney was ineffective by failing to adequately challenge the sufficiency of the evidence on appeal, and that witnesses had testified falsely in exchange for reduced sentences. West argues that all of the above represents a miscarriage of justice that entitles him to coram nobis relief. West is mistaken.

Challenges to the sufficiency of the evidence constitute a direct attack on the judgment and are not cognizable in a coram nobis proceeding. *Carner v. State*, 2018 Ark. 20, 535 S.W.3d 634. Allegations that the evidence presented at trial was not sufficient to support a finding of the defendant's guilt are issues to be addressed at trial and, when appropriate, on direct appeal. *Id.* Here, West's challenges to the sufficiency of the evidence raised in his petition pending before this court were thoroughly addressed and rejected on direct appeal. *See West*, 2017 Ark. App. 416, at 10, 530 S.W.3d at 361. Likewise, this court has repeatedly held that ineffective-assistance-of-counsel claims are not grounds for the writ but are properly raised in a timely petition for postconviction relief pursuant to Arkansas Rule of Criminal Procedure 37.1 (2017). *Wooten v. State*, 2018 Ark. 198, 547 S.W.3d 683. In sum, West has not raised a ground that is cognizable in coram nobis proceedings and has failed to demonstrate the writ should issue.

Petition denied.

Hancock Law Firm, by: *Sharon Kiel*, for appellant.

Leslie Rutledge, Att’y Gen., by: Ashley Argo Priest, Ass’t Att’y Gen., for appellee.