

Cite as 2022 Ark. 2
SUPREME COURT OF ARKANSAS
No. CV-21-220

LARRY RAYFORD

APPELLANT

V.

DEXTER PAYNE, DIRECTOR,
ARKANSAS DEPARTMENT OF
CORRECTION

APPELLEE

Opinion Delivered: January 20, 2022

PRO SE APPEAL FROM THE LINCOLN
COUNTY CIRCUIT COURT
[NO. 40CV-21-10]

HONORABLE JODI RAINES DENNIS,
JUDGE

AFFIRMED.

JOHN DAN KEMP, Chief Justice

Appellant Larry Rayford appeals the circuit court’s dismissal of his pro se petition for a writ of habeas corpus filed pursuant to Arkansas Code Annotated sections 16-112-101 to -123 (Repl. 2016). Rayford, who is incarcerated in the county where he filed his petition, alleged in the petition that his conviction is void because the charging information was defective. Because Rayford failed to raise a claim that would warrant issuance of the writ, we affirm.

I. *Facts*

In 1994, an Ashley County jury convicted Rayford of capital murder in the death of Christopher Lyle Bailey, and Rayford was sentenced to life without parole. We affirmed. *Rayford v. State*, 326 Ark. 656, 934 S.W.2d 496 (1996). Rayford then filed a petition pursuant to Arkansas Rule of Criminal Procedure 37.1 (1994), which was denied by the circuit court

and affirmed on appeal. *Rayford v. State*, CR 98-1322 (Ark. May 18, 2000) (unpublished per curiam). Rayford subsequently filed multiple petitions for postconviction relief, including petitions for a writ of habeas corpus and petitions to reinvest jurisdiction to consider a writ of error coram nobis, which were denied by the circuit court. We now consider his appeal of the circuit court's dismissal of his pro se petition for a writ of habeas corpus.

II. *Standard of Review*

A circuit court's decision on a petition for writ of habeas corpus will be upheld unless it is clearly erroneous. *Hobbs v. Gordon*, 2014 Ark. 225, at 5, 434 S.W.3d 364, 367. A decision is clearly erroneous when, although there is evidence to support it, the appellate court, after reviewing the entire evidence, is left with the definite and firm conviction that a mistake has been made. *Id.*, 434 S.W.3d at 367.

III. *Nature of the Writ*

A writ of habeas corpus is proper when a judgment of conviction is invalid on its face or when a trial court lacks jurisdiction over the cause. *Philyaw v. Kelley*, 2015 Ark. 465, at 4, 477 S.W.3d 503, 505. Jurisdiction is the power of the court to hear and determine the subject matter in controversy. *Baker v. Norris*, 369 Ark. 405, 413, 255 S.W.3d 466, 471 (2007). A trial court has subject-matter jurisdiction to hear and determine cases involving violations of criminal statutes. *Id.*, 255 S.W.3d at 471. A petitioner for the writ who does not allege his or her actual innocence and proceed under Act 1780 of 2001 must plead either the facial invalidity of the judgment or the lack of jurisdiction by the trial court and make a showing, by affidavit or other evidence, of probable cause to believe that the petitioner is

being illegally detained. Ark. Code Ann. § 16-112-103(a)(1) . Unless the petitioner can show that the trial court lacked jurisdiction or that the commitment was invalid on its face, there is no basis for a finding that a writ of habeas corpus should issue. *Fields v. Hobbs*, 2013 Ark. 416, at 5.

IV. *Claim for Relief*

On appeal, Rayford alleges that his conviction is void because the charging information named Larry Rayford as the accused while the sentencing order listed the full name of Larry Nicole Rayford. According to Rayford, no amended information was filed that reflected Rayford's full name. Rayford asserts that the defect in the information deprived the trial court of personal jurisdiction and subject-matter jurisdiction.

Claims of a defective information that raise a jurisdictional issue, such as a claim of an illegal sentence, are cognizable in habeas proceedings; however, general defective-information allegations are not. *Mister v. Kelley*, 2019 Ark. 187, at 3, 575 S.W.3d 410, 412. Here, Rayford's defective-information claim does not implicate the legality of his sentence for capital murder. Allegations such as those raised by Rayford are treated as trial error. *Id.*, 575 S.W.3d at 412. The proper time to object to the sufficiency of an indictment or information is prior to trial. *Davis v. Straughn*, 2020 Ark. 169, at 4. Thus, we hold that the circuit court properly dismissed Rayford's petition.

Affirmed.

Larry Rayford, pro se appellant.

Leslie Rutledge, Att'y Gen., by: *David L. Eanes Jr.*, Ass't Att'y Gen., for appellee.