

SUPREME COURT OF ARKANSAS

No. 10-984

GREGORY A. COOK

APPELLANT

V.

RAY HOBBS

APPELLEE

Opinion Delivered September 22, 2011

PRO SE APPEAL FROM JEFFERSON
COUNTY CIRCUIT COURT, CV 2010-
240, HON. JODI RAINES DENNIS,
JUDGEAFFIRMED.**PER CURIAM**

This is a pro se appeal from an order of the Jefferson County Circuit Court denying a pro se petition for writ of habeas corpus filed by appellant Gregory A. Cook. We affirm.

Appellant entered a plea of guilty on June 5, 1997, to a charge of capital murder and was sentenced to a term of life imprisonment without parole. He filed the habeas petition on May 21, 2010, in the circuit court in the county where he was incarcerated. Therein, appellant alleged (1) that the trial court lacked jurisdiction because the charging instrument was insufficient and because the warrant issued for his arrest was invalid, as it was not signed by a judicial officer; (2) that his guilty-plea hearing violated certain rules of criminal procedure, but, because he had been denied access to a copy of the hearing transcript, he could not specifically outline the rule violations or prove to the court that he is actually innocent; and (3) that his sentence is illegal because the felony information and arrest warrant were invalid.

The circuit court denied appellant's petition, finding that appellant's allegations failed to demonstrate that the circuit court lacked jurisdiction or that his commitment order was invalid

on its face. The circuit court further found that appellant's claim that he has been denied a transcript of his plea hearing was not one cognizable in a habeas proceeding. This appeal followed.

On appeal, appellant's allegations of error are the same as those raised below. We do not reverse a denial of postconviction relief unless the circuit court's findings are clearly erroneous. *Clarks v. State*, 2011 Ark. 296 (per curiam). A finding is clearly erroneous when, although there was 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 committed. *Flores v. State*, 350 Ark. 198, 85 S.W.3d 896 (2002).

Appellant's first and third arguments are intertwined, as they both center on his claims that the felony information filed against him and the warrant issued for his arrest were invalid. According to appellant, these deficiencies deprived the trial court of jurisdiction and rendered his sentence illegal. Appellant's arguments are without merit.

A petitioner is entitled to a writ of habeas corpus only where he demonstrates that the commitment order is invalid on its face or that the convicting court lacked jurisdiction. Ark. Code Ann. §§ 16-112-101 to-123 (Repl. 2006); *Friend v. Norris*, 364 Ark. 315, 219 S.W.3d 123 (2005) (per curiam). To do so, he must make a "showing, by affidavit or other evidence [of] probable cause to believe" that he is being illegally detained. Ark. Code Ann. § 16-112-103(a)(1); *Friend*, 364 Ark. 315, 219 S.W.3d 123.

First, we consider appellant's contention that the circuit court lacked jurisdiction to convict and sentence him, or that his sentence is illegal, because of a procedural defect with

regard to the charging instrument. This court has held that claims such as those raised by appellant are not cognizable in a habeas proceeding. *Birbett v. State*, 303 Ark. 220, 795 S.W.2d 53 (1990). We have consistently held that the proper time to object to the form or sufficiency of an indictment or information is prior to trial. *Davis v. State*, 2011 Ark. 88 (per curiam) (citing *Prince v. State*, 304 Ark. 692, 805 S.W.2d 46 (1991)); see also *England v. State*, 234 Ark. 421, 352 S.W.2d 582 (1962). We have declined to review the sufficiency of an information on appeal when there was no proper objection in the court below. *Prince*, 304 Ark. 692, 805 S.W. 2d 46. If we considered the issue to be jurisdictional, we could overlook the failure to object and reverse the conviction, if necessary, on our own motion. *Davis*, 2011 Ark. 88 (citing *Jones v. State*, 297 Ark. 485, 763 S.W.2d 81 (1989)). A deficiency within a felony information does not render a judgment invalid on its face. See *Hill v. Norris*, 2010 Ark. 287 (per curiam).

Likewise, appellant's contention that the trial court lacked jurisdiction and that his sentence is illegal because a judicial officer did not sign his arrest warrant is not an issue cognizable in a habeas proceeding. The validity of an arrest warrant is not an issue that is cognizable as a ground for a writ of habeas corpus because it does not call into question the jurisdiction of the court or the facial validity of the commitment. *Grimes v. State*, 2010 Ark. 97 (per curiam). This court has explained that a court's jurisdiction to try an accused does not depend upon the validity of an arrest. *Singleton v. State*, 256 Ark. 756, 510 S.W.2d 283 (1974). Moreover, an illegal arrest, standing alone, does not vitiate a valid conviction. *Biggers v. State*, 317 Ark. 414, 878 S.W.2d 717 (1994).

Next, appellant asserts that his plea agreement violated certain rules of criminal

procedure. Inasmuch as appellant is arguing that his plea was not voluntarily made, such a claim may not be raised in a habeas proceeding. *Graham v. State*, 358 Ark. 296, 188 S.W.3d 893 (2004)(per curiam). This court has held that the remedy in place for challenging a guilty plea on the basis that it was not entered into voluntarily or knowingly is a petition for postconviction relief filed pursuant to Arkansas Rule of Criminal Procedure 37.1. A petition for writ of habeas corpus is not a substitute for proceedings under Rule 37.1. *Johnson v. Hobbs*, 2010 Ark. 459 (per curiam).

Finally, appellant asserts that it was a miscarriage of justice for him to be denied a copy of the transcript of his plea-agreement hearing. Again, this is not a claim recognized in a habeas proceeding, as it does not demonstrate that the trial court lacked jurisdiction to convict and sentence him or that his judgment-and- commitment order is invalid on its face. *Friend*, 364 Ark. 315, 219 S.W.3d 123.

Affirmed.