

## SUPREME COURT OF ARKANSAS

No. 09-1228

JIMMY DOYLE BUMGARDNER  
APPELLANT

V.

LARRY NORRIS, DIRECTOR,  
ARKANSAS DEPARTMENT OF  
CORRECTION

APPELLEE

Opinion Delivered September 8, 2011

PRO SE APPEAL FROM THE  
LINCOLN COUNTY CIRCUIT  
COURT, LCV 2009-78, HON. JODI  
RAINES DENNIS, JUDGE

APPEAL DISMISSED.

## PER CURIAM

In 2005, Appellant Jimmy Doyle Bumgardner was convicted by a Grant County jury of possession of methamphetamine with intent to deliver, possession of drug paraphernalia, and possession of pseudoephedrine. He was sentenced to sixty, twenty, and twelve years in prison respectively. His convictions were affirmed on direct appeal. *Bumgardner v. State*, CACR 05-963 (Ark. App. Jun. 14, 2006) (unpublished). Thereafter, appellant filed a petition for postconviction relief pursuant to Criminal Procedure Rule 37.1 (2011), which was denied. This court affirmed that denial. *Bumgardner v. State*, CR 07-366 (Ark. Sept. 18, 2008) (unpublished per curiam).

On July 23, 2009, appellant filed a petition for writ of habeas corpus pursuant to Arkansas Code Annotated section 16-112-101(Repl. 2006) in the Circuit Court of Lincoln County. The court denied appellant's petition, finding that appellant's arguments had been addressed in his Rule 37.1 petition and that he failed to state any claim upon which relief

could be granted. Appellant brings this appeal.

Any petition for writ of habeas corpus is properly addressed to the circuit court in the county in which the petitioner is held in custody, unless the petition is filed pursuant to Act 1780 of 2001. Arkansas Code Annotated section 16-112-105 requires that certain procedural requirements be met by a petitioner seeking to have a court issue a writ of habeas corpus. The writ must be directed to the person in whose custody the prisoner is detained. Additionally, the writ should be issued by a court that has personal jurisdiction over the defendant. Otherwise, although a court may have subject-matter jurisdiction to issue the writ, a writ of habeas corpus is not returnable to the court issuing the writ; a court does not have personal jurisdiction to issue and make returnable before itself a writ of habeas corpus where the petitioner is in another county. *See, e.g., State Dep't of Pub. Welfare v. Lipe*, 257 Ark. 1015, 521 S.W.2d 526 (1975); *Johnson v. McClure*, 228 Ark. 1081, 312 S.W.2d 347 (1958); *State v. Ballard*, 209 Ark. 397, 190 S.W.2d 522 (1945).

In the present matter, appellant was in the custody of the Arkansas Department of Correction at the Varner Unit in Lincoln County when he filed the petition. Since that time, he has been transferred to the Tucker Unit in Jefferson County. As appellant's petition for writ of habeas corpus was not filed pursuant to Act 1780, he cannot seek relief until he files his petition in the county in which he is held. The Lincoln County Circuit Court no longer has personal jurisdiction over appellant and cannot release a prisoner who is not in custody within that county. *Mackey v. Lockhart*, 307 Ark. 321, 819 S.W.2d 702 (1991). Therefore, the Lincoln County Circuit Court cannot issue a writ of habeas corpus that would be returnable to the court to effect appellant's release, and appellant cannot obtain the specific relief he seeks

in this matter. Therefore, we decline to address the merits of appellant's arguments and dismiss the appeal.

Appeal dismissed.