

SUPREME COURT OF ARKANSAS

No. 09-576

KIARA SMITH

APPELLANT

V.

LARRY NORRIS, DIRECTOR,
ARKANSAS DEPARTMENT OF
CORRECTION

APPELLEE

Opinion Delivered September 8, 2011PRO SE APPEAL FROM THE
JEFFERSON COUNTY CIRCUIT
COURT, CV 2009-142, HON. JODI
RAINES DENNIS, JUDGE

APPEAL DISMISSED.

PER CURIAM

Appellant Kiara Smith, who was incarcerated in the Tucker Maximum Security Unity in Jefferson County, filed a pro se petition for a writ of habeas corpus in the Jefferson County Circuit Court. The circuit court entered an order denying the requested relief, and appellant lodged an appeal from that order in this court. We must dismiss the appeal as appellant is no longer in custody in Jefferson County, and, thus, the Jefferson County Circuit Court can no longer grant the relief requested. *Buckhanna v. Hobbs*, 2011 Ark. 119 (per curiam). According to the Arkansas Department of Correction records department, appellant has been released from custody.

Any petition for writ of habeas corpus to effect the release of a prisoner is properly addressed to the circuit court in the county in which the prisoner is held in custody, unless the petition is filed pursuant to Act 1780 of 2001, codified at Arkansas Code Annotated sections 16-112-201 to -208 (Repl. 2006), in which case the petition is properly filed pursuant to Arkansas Code Annotated section 16-112-201(a) in the court where the judgment

of conviction was entered. Appellant, who was incarcerated by virtue of a judgment of conviction entered in the Chickasawba District of the Mississippi County Circuit Court, did not invoke Act 1780.

A circuit court does not have jurisdiction to release on a writ of habeas corpus a prisoner who is not in custody in that court's jurisdiction. *Waller v. Norris*, 2011 Ark. 168 (per curiam); *Hill v. State*, 2010 Ark. 102 (per curiam); *Pardue v. State*, 338 Ark. 606, 999 S.W.2d 198 (1999) (per curiam) (citing *Mackey v. Lockhart*, 307 Ark. 321, 819 S.W.2d 702 (1991)). Even if appellant's petition had merit and the circuit court erred in dismissing it, appellant cannot now prevail on appeal as he is no longer in custody within the jurisdiction of that court. *Waller*, 2011 Ark. 168. Accordingly, the appeal is dismissed.

Appeal dismissed.