

**SUPREME COURT OF ARKANSAS**

No. 09-970

ROGER BRADFORD

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered

September 15, 2011

PRO SE APPEAL FROM THE LEE  
 COUNTY CIRCUIT COURT [CV 2009-99],  
 HON. RICHARD L. PROCTOR, JUDGE

AFFIRMED.**PER CURIAM**

On June 5, 2009, appellant Roger Bradford filed three pro se petitions for writ of habeas corpus in the county in which he was incarcerated. In the first petition, he challenged his 1982 convictions for three counts of delivery of a controlled substance for which he was sentenced to a total of ten years in prison. In the second petition, appellant contested his 1990 conviction for second-degree escape for which he was sentenced to a term of six years in prison. Lastly, he challenged his 1994 conviction for second-degree escape for which he received a sentence of fifteen years in prison.<sup>1</sup> The circuit court denied the petitions without a hearing, and appellant now appeals the circuit court's decision.

Under our statute, a petitioner who does not allege his actual innocence<sup>2</sup> must plead either the facial invalidity of the judgment or the lack of jurisdiction by the circuit court and

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<sup>1</sup>Appellant is currently serving a sentence of life in prison for possession of a controlled substance with intent to deliver. *See Bradford v. State*, 328 Ark. 701, 947 S.W.2d 1 (1997).

<sup>2</sup>A petitioner who seeks a writ of habeas corpus and alleges actual innocence must do so in accordance with Act 1780 of 2001, which is codified as Arkansas Code Annotated sections 16-112-201 to -208 (Repl. 2006). Ark. Code Ann. § 16-112-103(a)(2).

make a “showing by affidavit or other evidence [of] probable cause to believe” that he is illegally detained. *Wilkins v. Norris*, 2011 Ark. 169 (per curiam); Ark. Code Ann. § 16-112-103(2)(1) (Repl. 2006). The burden is on the petitioner in a petition for writ of habeas corpus to establish that the circuit court lacked jurisdiction or that the commitment was invalid on its face; otherwise, there is no basis for a finding that a writ of habeas corpus should issue. *Jackson v. Norris*, 2011 Ark. 49, \_\_\_ S.W.3d \_\_\_.

With regard to these three convictions, appellant has failed to demonstrate that he is being illegally detained, as the sentences he received for these convictions have long since expired. Where the petitioner is not incarcerated as a direct result of his conviction when he files his habeas-corpus petition, the circuit court lacks jurisdiction to grant relief. *State v. Wilmoth*, 369 Ark. 346, 255 S.W.3d 419 (2007); *Anderson v. State*, 352 Ark. 36, 98 S.W.3d 403 (2003); *Pardue v. State*, 338 Ark. 606, 999 S.W.2d 198 (1999) (per curiam). Under the circumstances, appellant’s challenge to those convictions is moot, as any judgment rendered would have no practical legal effect upon an existing legal controversy. *Anderson*, 352 Ark. 36, 98 S.W.3d 403. This is so, even though appellant claims that those convictions were used to enhance a subsequent sentence. *Id.* Accordingly, we affirm the circuit court’s decision to deny appellant’s petition.

Affirmed.