

SUPREME COURT OF ARKANSAS

No. 10-161

ANDRE WASHINGTON

APPELLANT

V.

STATE OF ARKANSAS; LARRY NORRIS,
DIRECTOR, DEPARTMENT OF
CORRECTION

APPELLEES

Opinion Delivered September 15, 2011

PRO SE APPEAL FROM THE LEE
COUNTY CIRCUIT COURT [CV-2009-
182], HON. RICHARD L. PROCTOR,
JUDGEAFFIRMED.**PER CURIAM**

Appellant Andre Washington brings the instant appeal from the circuit court's order denying his petition for writ of habeas corpus. In 2009, he entered a negotiated plea of guilty to criminal attempt to commit rape and failure to register as a sex offender and was sentenced as a habitual offender to a total of 180 months' imprisonment. Washington then filed a petition for writ of habeas corpus in the county in which he was incarcerated, pursuant to Arkansas Code Annotated §§ 16-112-101 to -123 (Repl. 2006). The petition was denied, and Washington has lodged the instant appeal. We affirm the circuit court's order.

The burden is on the petitioner in a petition for writ of habeas corpus to establish that the trial 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. *Daniels v. Hobbs*, 2011 Ark.

192 (per curiam). Under our statute, a petitioner who does not allege his actual innocence¹ 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 he is illegally detained. Ark. Code Ann. § 16-112-103(a)(1); *Tryon v. Hobbs*, 2011 Ark. 76, at 2 (per curiam).

In his petition, Washington contended that his sentence was void and illegal because his plea of guilty was not taken in accordance with Arkansas Rule of Criminal Procedure 24 (2011). Specifically, he asserted that he was not informed that he would be required to serve the entirety of his sentence and that the trial court did not inform him of the nature of the charges against him, the mandatory minimum sentence, or the maximum possible sentence. In his brief on appeal, Washington further argues that he was erroneously denied a hearing on his habeas petition and that the circuit court’s order lacked findings of fact.

It is clear to this court that Washington failed to state a claim in his petition that was cognizable in a habeas proceeding. We have held that claims concerning whether a petitioner’s plea proceedings were in compliance with Rule 24 are not cognizable in habeas proceedings. *Lumley v. State*, 2011 Ark. 265 (per curiam); *Friend v. Norris*, 364 Ark. 315, 219 S.W.3d 123 (2005) (per curiam). Likewise, even if Washington had raised the issue as a claim of ineffective assistance of counsel, such claims are not cognizable in a habeas proceeding. *See Wilkins v. Norris*, 2011 Ark. 169 (per curiam).

Additionally, there was no error by the circuit court in failing to hold a hearing on

¹A petitioner who seeks a writ of habeas corpus and alleges actual innocence must do so in accordance with Act 1780 of 2001, codified as Arkansas Code Annotated §§ 16-112-201 to -208 (Repl. 2006). Ark. Code Ann. § 16-112-103(a)(2).

Washington's petition. A hearing is simply not required if a petition for writ of habeas corpus does not state a basis for the writ to issue. *Henderson v. State*, 2010 Ark. 30 (per curiam). Similarly, the circuit court committed no error by failing to enter findings of fact, as there is no requirement set forth in Arkansas Code Annotated §§ 16-112-101 to -123 that the circuit court provide findings of fact in an order denying a petition for the writ. *Lumley*, 2011 Ark. 265.

Because Washington's petition did not state a valid challenge to the trial court's jurisdiction and failed to show that the commitment rendered in his case was facially invalid, the circuit court did not err in denying the petition. Accordingly, we affirm the circuit court's order.

Affirmed.