

Cite as 2018 Ark. 200  
**SUPREME COURT OF ARKANSAS**  
No. CR-18-165

TROY JASON PATRICK RILEY  
APPELLANT

V.

STATE OF ARKANSAS  
APPELLEE

Opinion Delivered May 31, 2018

MOTION FOR EXTENSION OF TIME  
TO FILE BRIEF [LOGAN COUNTY  
CIRCUIT COURT, SOUTHERN  
DISTRICT, NO. 42BCR-10-15]

HONORABLE JERRY RAMEY, JUDGE

APPEAL DISMISSED; MOTION MOOT.

---

COURTNEY HUDSON GOODSON, Associate Justice

Appellant Troy Jason Patrick Riley was found guilty of rape, a class Y felony, in August 2011 and was sentenced to 300 months' imprisonment in the Arkansas Department of Correction (ADC). We affirmed. *Riley v. State*, 2012 Ark. 462. On December 18, 2017, Riley filed in the trial court a motion for a new trial based on newly discovered evidence, alleging that he was entitled to a new trial because the victim recanted her trial testimony that a rape had occurred at a "Grissom Place" address. Specifically, Riley's motion challenges the trial court's jurisdiction as well as the sufficiency of the evidence supporting the conviction.<sup>1</sup> The trial court denied the motion, finding that there

---

<sup>1</sup>In a pro se petition to reinvest jurisdiction in the circuit court to consider a petition for writ of error coram nobis, Riley raised the argument that he was entitled to relief based on the victim's recantation of her trial testimony, and this court denied the

was sufficient evidence that Riley had raped the victim at a “Grissom Place” address and that jurisdiction was not lacking. It is from the denial of relief from the motion for new trial that Riley brings this appeal. Now before this court is Riley’s motion for extension of time to file the appellant’s brief. We need not address the merits of the motion because it is clear from the record that Riley cannot prevail on appeal; therefore, the appeal is dismissed, rendering the motion moot.

Arkansas Rule of Criminal Procedure 33.3(b) (2017) provides that “[a]ll post-trial motions or applications for relief must be filed within thirty days after the date of entry of judgment.” A motion for new trial must be filed within thirty days to be timely. *See Smith v. State*, 301 Ark. 374, 784 S.W.2d 595 (1990). Here, Riley filed his motion for new trial based on newly discovered evidence more than six years after entry of his judgment of conviction. Simply put, Riley’s motion for new trial is too late. *See id.* Furthermore, Riley has failed to argue that he is entitled to any other postconviction relief, and as such, he

---

petition, finding a writ of error coram nobis does not lie for recanted testimony. *See Riley v. State*, 2015 Ark. 232 (per curiam). The record here contains a letter from 2014 from the victim, which was previously submitted when this court considered Riley’s pro se petition to reinvest jurisdiction in the trial court, and a sworn affidavit from the victim dated on September 19, 2016. Riley now contends more specifically in his motion for a new trial that the victim recants testimony regarding any sexual activity occurring at a “Grissom Place” address in Booneville, Arkansas, located in Logan County and that any evidence regarding a rape or sexual assault occurred during one incident at a “506 Rattlesnake” address in Booneville, Arkansas, which is not in Logan County.

cannot prevail on appeal.<sup>2</sup> Because we dismiss the appeal, the motion for extension of time is rendered moot.

Appeal dismissed; motion moot.

HART, J., dissents.

**JOSEPHINE LINKER HART, Justice, dissenting.** I dissent for the reasons outlined in *Gray v. State*, 2018 Ark. 79, \_\_\_ S.W.3d \_\_\_ (Hart, J., dissenting). The only matter properly before us at this juncture is Mr. Riley's motion for extension of time to file his brief. This court does not yet have jurisdiction to rule on the merits of Mr. Riley's appeal.

---

<sup>2</sup>To the extent Riley referenced our habeas statutes, Arkansas Code Annotated sections 16-112-101 to -123 (Repl. 2016), in his motion for new trial, Riley's petition would not be properly filed. Riley, who is currently housed in Texas by agreement between the Director of the ADC and Texas authorities, filed his motion for new trial in the Logan County Circuit Court. Any petition for writ of habeas corpus to effect the release of a prisoner is properly addressed to the circuit court in which the prisoner is held in custody, unless the petition is filed pursuant to Act 1780. See Ark. Code Ann. §§ 16-112-201 to -208 (Repl. 2016); see also *Dunahue v. Kelley*, 2018 Ark. 4, 534 S.W.3d 140. Arkansas Code Annotated section 16-112-105 (Repl. 2016) requires that the writ be directed to the person in whose custody the petitioner is detained. *Dunahue*, 2018 Ark. 4, 534 S.W.3d 140. Although a circuit court may have subject-matter jurisdiction to issue the writ, a court does not have personal jurisdiction to issue and make returnable before itself a writ of habeas corpus to release a petitioner held in another county. *Id.* Riley remains under the jurisdiction of the director although he is housed in Texas, and a writ of habeas corpus is returnable in Jefferson County. *Hundley v. Hobbs*, 2015 Ark. 70, 456 S.W.3d 755. Even if his motion for new trial were to be construed as a petition for writ of habeas corpus, a writ of habeas corpus issued by the Logan County Circuit Court could not be returned because that court lacks personal jurisdiction over the prison officials located in Jefferson County.