SLIP OPINION

Cite as 2009 Ark. 472

ARKANSAS SUPREME COURT

No. 09-417

Opinion Delivered October 1, 2009

ISAAC RUSSELL
Appellant

v.

LARRY NORRIS
Appellee

PRO SE MOTION FOR RECONSIDERATION OF DISMISSAL OF APPEAL AND MOTIONS TO AMEND MOTION FOR RECONSIDERATION AND TO RESUBMIT [CIRCUIT COURT OF CHICOT COUNTY, CV 2009-45, HON. ROBERT BYNUM GIBSON, JR., JUDGE]

MOTION TO RESUBMIT GRANTED; MOTION FOR RECONSIDERATION DENIED; MOTION TO AMEND MOOT.

PER CURIAM

Appellant Isaac Russell filed a pro se petition for writ of habeas corpus in circuit court that was denied. He lodged an appeal of the order in this court and later filed petitions in which he requested that this court issue certain injunctions. We dismissed the appeal and held the petitions to be moot. *Russell v. Norris*, 2009 Ark. 349 (unpublished per curiam). Appellant has now filed a pro se motion for reconsideration of that decision. He later filed a motion requesting permission to include an additional argument for reconsideration within one of the allegations in the previous motion. More recently, appellant filed another motion in which he sought to “resubmit” his motion by substituting a new version of the motion to thereby once again amend the motion for reconsideration.

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In his first motion for reconsideration, appellant raised four bases for reconsideration, asserting what he alleged were errors of fact and law in the opinion. In his motion to amend, appellant sought to add to his third claim of error an additional allegation that the prosecution suppressed information concerning his claims so that he could not raise the issues at trial or on appeal. In the motion for reconsideration that appellant seeks to substitute for the original, appellant restates the first three allegations of error, as amended, and omits the fourth claim of error. As we grant the new motion to withdraw the previous motion and substitute the latest version, appellant's motion to amend is moot. We will consider only the final revision to appellant's motion for reconsideration, as appellant requests. Even as revised, the motion for reconsideration has no merit.

We dismissed Russell's appeal in our earlier decision because appellant did not state cognizable claims in his habeas petition. Appellant's claims, as in an earlier habeas proceeding, were based upon allegations that, because his arrest was invalid, the trial court had lost jurisdiction. An illegal arrest alone, however, does not result in an invalid conviction. *Biggers v. State*, 317 Ark. 414, 878 S.W.2d 717 (1994).

We note at the outset that the language of Arkansas Code Annotated section 16-112-103(a)(1) (Repl. 2006) and our case law do not provide for a broad remedy covering all allegations of any constitutional violation. Under our statute, a petitioner who does not allege his actual innocence[1] 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" he

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

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is illegally detained. Ark. Code Ann. § 16-112-103(a)(1) (Repl. 2006). As we discussed in our previous opinion, the remedy is a narrow one, and the cited case law does not support appellant's position.

In his first allegation of error, appellant contends that the trial court lost jurisdiction because he is imprisoned without lawful authority and the conviction should be void. He cites no authority for the proposition that his sentence was illegal, rather than illegally imposed. In fact, the proposition that his conviction is void is in contradiction to our holding in *Biggers* that an illegal arrest does not void a conviction. In this allegation, appellant makes only a general due process argument that he is unlawfully imprisoned, without further development. This court will not research and develop arguments presented in pleadings to it. *Williams v. State*, 371 Ark. 550, 268 S.W.3d 868 (2007).

In his second allegation of error, appellant asserts that the claims in the habeas petition were not an attempt to challenge the judgment on the basis that his arrest was invalid but rather were constitutional challenges to the charging instrument and process, the prosecution, and appellant's arrest. He contends that this court should address his due process issues, citing *Robinson v. Shock*, 282 Ark. 262, 667 S.W.2d 956 (1984).

The constitutional challenge that was raised in the habeas petition in circuit court arose, as did the claim in appellant's previous habeas petition, from appellant's continued allegations of the alleged invalidity of the arrest, insufficient probable cause for the warrant to issue, and an invalid information. The *Robinson* case applied an exception to the general rule that this court will not look beyond the facial validity of the commitment in a habeas proceeding. *Robinson*, which involved

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juvenile offenders committed to the Department of Youth Services, is not applicable here. Appellant was not a juvenile at the time the crime was committed. *See Cleveland v. Frazier*, 338 Ark. 581, 999 S.W.2d 188 (1999).

In his last allegation of error, appellant contends that this court should consider the claims concerning his arrest report because the prosecution withheld the information and he could not have raised the issue at trial or on appeal. Regardless of whether appellant actually could or did raise the issues he raised in his petition during his trial or on direct appeal, it is clear that those issues are of the type that may be challenged at trial or on appeal and not in a habeas proceeding. Issues such as appellant raised concerning constitutional violations based upon what appellant alleged to be a lack of probable cause for the arrest warrant require a factual inquiry that is not appropriate to a habeas proceeding. *See Friend v. Norris*, 364 Ark. 315, 219 S.W.3d 123 (2005) (per curiam); *Meny v. Norris*, 340 Ark. 418, 13 S.W.3d 143 (2000) (per curiam).

Appellant stated no valid reason to reconsider our previous decision and, although he alleges otherwise, he identified no actual errors of law or fact. We accordingly deny the motion for reconsideration.

Motion to resubmit granted; motion for reconsideration denied; motion to amend moot.