

ARKANSAS SUPREME COURT

No. CACR 04-1398

DARRELL F. WATSON
Petitioner

v.

STATE OF ARKANSAS
Petitioner

Opinion Delivered January 24, 2008

PRO SE PETITION TO REINVEST
JURISDICTION IN TRIAL COURT TO
CONSIDER A PETITION FOR WRIT
OF ERROR CORAM NOBIS [CIRCUIT
COURT OF PULASKI COUNTY, CR
2002-4270]

PETITION DENIED.

PER CURIAM

Petitioner Darrell Watson was found guilty of aggravated robbery and theft of property after a trial to the bench and received an aggregate sentence of 264 months' imprisonment. The Arkansas Court of Appeals affirmed. *Watson v. State*, CACR 04-1398 (Ark. App. Aug. 31, 2005). Subsequently, petitioner sought relief pursuant to Ark. R. Crim. P. 37.1. The trial court denied the petition, and we affirmed. *Watson v. State*, CR 06-148 (Ark. Oct. 5, 2006) (per curiam).

Now before us is petitioner's pro se petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis.¹ The petition to reinvest jurisdiction in the trial court is necessary because the circuit court can entertain a petition for writ of error coram nobis after a judgment has been affirmed on appeal only after we grant permission. *Dansby v. State*, 343 Ark. 635, 37 S.W.3d 599 (2001) (per curiam).

¹For clerical purposes, the instant pleading was assigned the same docket number as the direct appeal of the judgment.

A writ of error coram nobis is an extraordinarily rare remedy, more known for its denial than its approval. *State v. Larimore*, 341 Ark. 397, 17 S.W.3d 87 (2000). The writ is allowed only under compelling circumstances to achieve justice and to address errors of the most fundamental nature. *Pitts v. State*, 336 Ark. 580, 986 S.W.2d 407 (1999) (per curiam). We have held that a writ of error coram nobis was available to address certain errors that are found in one of four categories: insanity at the time of trial, a coerced guilty plea, material evidence withheld by the prosecutor or a third-party confession to the crime during the time between conviction and appeal. *Pitts v. State*, 336 Ark. 580, 986 S.W.2d 407 (1999) (per curiam).

Further, for the writ to issue following the affirmance of a conviction, the petitioner must show a fundamental error of fact extrinsic to the record. *Larimore v. State*, 327 Ark. 271, 938 S.W.2d 818 (1997). A writ of error coram nobis is appropriate only when an issue was not addressed or could not have been addressed at trial because it was somehow hidden or unknown and would have prevented the rendition of the judgment had it been known to the trial court. *Echols v. State*, 360 Ark. 332, 201 S.W.3d 890 (2005); *Brown v. State*, 330 Ark. 627, 955 S.W.2d 901 (1997). Coram nobis proceedings are attended by a strong presumption that the judgment of conviction is valid. *Penn v. State*, 282 Ark. 571, 670 S.W.2d 426 (1984) (citing *Troglin v. State*, 257 Ark. 644, 519 S.W.2d 740 (1975)).

Here, petitioner alleges that a witness's prior statement "went unnoticed" during the criminal trial and that he discovered this statement through due diligence. He maintains that the statement contained exculpatory evidence that would have exonerated him. Nevertheless, petitioner's pleading to this court is devoid of any information that would indicate the witness to which he is referring, the content of the statement at issue, and how the statement would be exculpatory in light of the trial

testimony. Without at least this basic information, it cannot be determined whether the statement was one that was extrinsic to the record, was not addressed, or could not have been addressed at petitioner's trial because it was somehow hidden or unknown. *Echols, supra; Larimore, supra.* Petitioner did not allege that this statement was one withheld by the prosecutor nor did he present facts in support of such an allegation.

In a petition for writ of error coram nobis, it is the petitioner's burden to show that the writ is warranted. *Cloird v. State*, 357 Ark. 446, 182 S.W.3d 477 (2004). Here, petitioner has failed to make a showing that the allegations contained in his petition are meritorious or are grounds for reinvesting jurisdiction in the trial court to consider a petition for writ of error coram nobis. As no substantive basis exists for granting the petition, we need not reach the issue of whether petitioner exercised due diligence in filing this petition.

Petition denied.