

ARKANSAS SUPREME COURT

No. CACR 06-708

ROBERT McADORY
Petitioner

v.

STATE OF ARKANSAS
Respondent

Opinion Delivered April 10, 2008

PRO SE PETITION TO REINVEST
JURISDICTION IN TRIAL COURT TO
CONSIDER A PETITION FOR WRIT
OF ERROR CORAM NOBIS [CIRCUIT
COURT OF MISSISSIPPI COUNTY, CR
2004-98]

PETITION DENIED.

PER CURIAM

In 2005, petitioner Robert McAdory was found guilty by a jury of aggravated robbery and sentenced to 120 months' imprisonment. The Arkansas Court of Appeals affirmed. *McAdory v. State*, 98 Ark. App. 181, ___ S.W.3d ___ (2007). 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).

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

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

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. *Id.*

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).

Here, petitioner claims that the trial court improperly denied his motion to suppress his statement to the police because his confession was coerced. He also complains that the warrant issued by his parole officer was not introduced into evidence at a pretrial suppression hearing. These arguments fail as petitioner's allegations are an attempt to reargue an evidentiary matter settled in the direct appeal, and do not fit within the four categories enumerated above as a basis for issuance of a writ of error coram nobis. *Pitts, supra*. Specifically, both appellant's arguments were addressed at the pretrial suppression hearing. Moreover, petitioner fails to show a fundamental error of fact extrinsic to the record. *See Larimore*, 327 Ark. 271, 938 S.W.2d 818.

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). 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.

Petition denied.