

SUPREME COURT OF ARKANSAS

No. CACR 05-241

ISAAC DEWAYNE RUSSELL
PETITIONER

V.

STATE OF ARKANSAS
RESPONDENT

Opinion Delivered September 13, 2012

PRO SE PETITION TO REINVEST JURISDICTION IN THE TRIAL COURT TO CONSIDER A PETITION FOR WRIT OF ERROR CORAM NOBIS AND MOTIONS TO SUPPLEMENT AND REQUESTING COPIES AT STATE EXPENSE [PULASKI COUNTY CIRCUIT COURT, FOURTH DIVISION, CR 03-3247]

MOTION TO SUPPLEMENT GRANTED; PETITION TO REINVEST JURISDICTION DISMISSED; MOTION FOR COPIES MOOT.

PER CURIAM

The Arkansas Court of Appeals affirmed a judgment reflecting petitioner Isaac Dewayne Russell's 2004 conviction and 192-month sentence on a charge of first-degree domestic battering. *Russell v. State*, CACR 05-241 (Ark. App. Oct. 26, 2005) (unpublished). Petitioner filed a petition in this court to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis concerning that conviction, and that petition was denied. *Russell v. State*, CACR 05-241 (Ark. Dec. 19, 2008) (unpublished per curiam). Petitioner has again filed a petition in this court that requests that this court reinvest jurisdiction in the trial court in order that he may proceed with a petition for writ of error

coram nobis.¹

Petitioner has also filed a motion to supplement that petition and a motion that requests a file-marked copy of the motion to supplement. We grant the motion to supplement so that any new facts and grounds petitioner may wish to plead are presented, but we dismiss the petition to reinvest jurisdiction in the trial court as abuse of the writ. The motion for copies is therefore moot.

In his previous petition for the writ, petitioner alleged that the prosecution had withheld his arrest report. In the opinion that denied the petition, we noted that the public defender's office referenced the report in a letter to petitioner that had been attached to the petition and that the reference indicated that the arrest report was included in the circuit court's record of the case. We denied the petition because petitioner failed to meet his burden to show that the writ was warranted because he had not presented facts that would support his claim that the arrest report had been suppressed. *Id.*

Petitioner raises the same claims in his new petition, and he fails to provide any new facts that better establish that claim in either the petition or the motion to supplement. He does not provide any facts to support his claim that his arrest report was in fact suppressed by the prosecution, and what material he has provided with each petition tends to indicate, to the contrary, that the report was made available to defense counsel. A subsequent petition that does not allege new grounds or additional facts to cure the deficiencies in the previous

¹For clerical purposes, the petition was assigned the same docket number as the direct appeal.

petition is an abuse of the writ and does not support renewal of the application. *O'Neal v. State*, 2010 Ark. 425 (per curiam); *Sanders v. State*, 2010 Ark. 139 (per curiam) (citing *Jackson v. State*, 2009 Ark. 572 (per curiam)). Petitioner effectively admits that he has abused the writ, indicating that he waited to refile the petition hoping that “there may be different judges presiding over the motion who would give the petitioner a fair ruling.” Accordingly, we dismiss the motion.

Motion to supplement granted; petition to reinvest jurisdiction dismissed; motion for copies moot.

BROWN, J., not participating.