

SUPREME COURT OF ARKANSAS

No. CACR 11-350

WILLIE McDANIELS

PETITIONER

V.

STATE OF ARKANSAS

RESPONDENT

Opinion Delivered December 13, 2012

PRO SE PETITION TO REINVEST
JURISDICTION IN THE CIRCUIT
COURT TO CONSIDER A PETITION
FOR WRIT OF ERROR CORAM NOBIS
[PULASKI COUNTY CIRCUIT COUNTY,
60CR 09-187]PETITION DENIED.**PER CURIAM**

In 2010, petitioner Willie McDaniels was found guilty of two counts of rape. He was sentenced to an aggregate sentence of 480 months' imprisonment. The Arkansas Court of Appeals affirmed. *McDaniels v. State*, 2012 Ark. App. 219.

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 A petition for leave to proceed 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. *McFerrin v. State*, 2012 Ark. 305 (per curiam); *Williams v. State*, 2011 Ark. 541 (per curiam); *Pinder v. State*, 2011 Ark. 401 (per curiam); *Dickerson v. State*, 2011 Ark. 247 (per curiam); *Cox v. State*, 2011 Ark. 96 (per curiam); *Fudge v. State*, 2010 Ark. 426; *Grant v. State*, 2010 Ark. 286, 365 S.W.3d 894 (per curiam) (citing *Newman v. State*, 2009 Ark. 539, 354 S.W.3d 61); *Dansby v. State*, 343 Ark. 635, 37

¹The petition was assigned the docket number for the direct appeal of the judgment of conviction.

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. *Anderson v. State*, 2012 Ark. 270, ___ S.W.3d ___ (per curiam); *Coley v. State*, 2011 Ark. 540 (per curiam); *Pinder*, 2011 Ark. 401; *Rayford v. State*, 2011 Ark. 86 (per curiam); *Whitham v. State*, 2011 Ark. 28 (per curiam); *Fudge*, 2010 Ark. 426; *Barker v. State*, 2010 Ark. 354, 373 S.W.3d 865; *Larimore v. State*, 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. *Coley*, 2011 Ark. 540 (citing *Pitts v. State*, 336 Ark. 580, 986 S.W.2d 407 (1999) (per curiam)). We have held that a writ of error coram nobis is 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*, 336 Ark. at 583, 986 S.W.2d at 409. The function of the writ is to secure relief from a judgment rendered while there existed some fact that would have prevented its rendition if it had been known to the circuit court and which, through no negligence or fault of the defendant, was not brought forward before rendition of judgment. *McFerrin*, 2012 Ark. 305; *Coley*, 2011 Ark. 540; *Pinder*, 2011 Ark. 401; *Cloird v. State*, 2011 Ark. 303 (per curiam); *Smith v. State*, 2011 Ark. 306 (per curiam); *Biggs v. State*, 2011 Ark. 304 (per curiam); *Grant*, 2010 Ark. 286, 365 S.W.3d 894; *see also Sanders v. State*, 374 Ark. 70, 285 S.W.3d 630 (2008) (per curiam); *Cloird v. State*, 357 Ark. 446, 182 S.W.3d 477 (2004). The petitioner has the burden of demonstrating a fundamental error of fact extrinsic to the record. *Williams*, 2011 Ark. 541; *Pinder*, 2011 Ark. 401; *Webb v. State*, 2009 Ark. 550 (per curiam); *Sanders*, 374 Ark. 70, 285 S.W.3d

630. Coram-nobis proceedings are attended by a strong presumption that the judgment of conviction is valid. *Carter v. State*, 2012 Ark. 186 (per curiam); *Coley*, 2011 Ark. 540; *Cloird*, 2011 Ark. 303; *Smith*, 2011 Ark. 306; *Gardner v. State*, 2011 Ark. 27 (per curiam); *Barker*, 2010 Ark. 354, 373 S.W.3d 865; *Echols v. State*, 360 Ark. 332, 201 S.W.3d 890 (2005); *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)).

Petitioner's sole ground for issuance of the writ is the allegation that he was not afforded effective assistance of counsel at trial. The allegation is not a basis for the writ. This court has consistently held that allegations of ineffective assistance of counsel are outside the purview of a coram-nobis proceeding. *Rodriguez v. State*, 2012 Ark. 393 (per curiam); *Rodgers v. State*, 2012 Ark. 193 (per curiam); *Martin v. State*, 2012 Ark. 44 (per curiam); *Butler v. State*, 2011 Ark. 542 (per curiam); *Benton v. State*, 2011 Ark. 211 (per curiam); *Pierce v. State*, 2009 Ark. 606 (per curiam); *Scott v. State*, 2009 Ark. 437 (per curiam); *McArty v. State*, 335 Ark. 445, 983 S.W.2d 418 (1998) (per curiam).

To the extent that petitioner may have intended his claims to be an attack on the sufficiency of the evidence or the credibility of witnesses, such issues are also not cognizable in coram-nobis proceedings. *Butler*, 2011 Ark. 542. The sufficiency of the evidence and credibility of witnesses are matters to be addressed at trial. *See Martin*, 2012 Ark. 44; *see also Cooper v. State*, 2012 Ark. 471 (per curiam); *Grant*, 2010 Ark. 286, 365 S.W.3d 894; *Flanagan v. State*, 2010 Ark. 140 (per curiam).

Petition denied.

Willie McDaniels, pro se petitioner.

No response.