

SUPREME COURT OF ARKANSAS

No. CR-12-830

JESSIE HILL

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered September 26, 2013

APPELLEE'S MOTIONS TO DISMISS
APPEAL AND TO STAY BRIEF TIME
[GRANT COUNTY CIRCUIT COURT,
27CR-95-38, HON. ED M. KOON,
JUDGE]MOTION TO DISMISS APPEAL
GRANTED; MOTION TO STAY BRIEF
TIME MOOT.**PER CURIAM**

Appellant Jessie Hill was convicted of capital murder and sentenced to life imprisonment without parole in the Grant County Circuit Court in 1995. This court affirmed the judgment. *Hill v. State*, 325 Ark. 419, 931 S.W.2d 64 (1996). In 2012, appellant filed in the trial court a motion under the case number for his 1995 conviction that sought a hearing on the denial of his request to the Arkansas State Crime Laboratory under the Arkansas Freedom of Information Act ("FOIA"), codified as Arkansas Code Annotated sections 25-19-101 to -110 (Repl. 2002 & Supp. 2011). The request sought a copy of fingerprint-analysis test results on a piece of evidence from the trial. The motion was denied, and appellant lodged an appeal in this court.

The State has filed motions to dismiss the appeal and to stay the time for filing the State's brief pending this court's decision on the motion to dismiss. We grant the motion to dismiss. Because we dismiss the appeal, the motion to stay brief time is moot.

An appeal of the denial of postconviction relief will not be permitted to go forward

where it is clear that the appellant could not prevail. *Greene v. State*, 2013 Ark. 251 (per curiam); *Bryant v. May*, 2013 Ark. 168 (per curiam); *Glaze v. State*, 2013 Ark. 141 (per curiam); *King v. State*, 2013 Ark. 133 (per curiam). The State correctly asserts in its motion to dismiss the appeal that the trial court lacked jurisdiction to consider the motion that appellant filed. Where the circuit court lacks jurisdiction, this court also lacks jurisdiction. *Murphy v. State*, 2013 Ark. 243 (per curiam); *Justus v. State*, 2012 Ark. 91.

Appellant sought a hearing in the circuit court under section 25-19-107 of the FOIA on the basis that he had been denied the request submitted to the custodian of records for the crime lab. The State correctly contends that, under section 25-19-107(a), an appeal of the denial of the FOIA request such as appellant's must be filed in either the Pulaski County Circuit Court or in the circuit court of the county where the aggrieved party resides.¹ Appellant is not incarcerated in Grant County, and the Grant County Circuit Court did not have jurisdiction to hear appellant's motion under the FOIA.

Motion to dismiss appeal granted; motion to stay brief time moot.

Jessie Hill, pro se appellant.

No response.

¹In his response, appellant appears to contend that the Grant County Prosecuting Attorney is involved in the denial of the request, citing an unpublished case that reversed for a hearing. Appellant's request under the FOIA was not included in the record, but the motion for hearing specifically indicated that it was addressed to the custodian of the state agency and not to the prosecuting attorney.