

ARKANSAS SUPREME COURT

No. CR 07-1251

DOUGLAS MUSGROVE
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered April 10, 2008

PRO SE APPEAL FROM THE CIRCUIT
COURT OF ASHLEY COUNTY, CR
2005-98, HON. DON E. GLOVER,
JUDGE

AFFIRMED.

PER CURIAM

In 2006, appellant Douglas Musgrove was found guilty by a jury of manufacture of methamphetamine and use of paraphernalia to manufacture methamphetamine. He was sentenced to an aggregate term of 120 months' imprisonment. No appeal was taken from the judgment of conviction.

In 2007, appellant filed in the trial court in Ashley County a petition for writ of habeas corpus. In the petition, he sought dismissal of his convictions based upon a double-jeopardy violation and the trial court's lack of subject-matter jurisdiction over one of the charges. The trial court denied the petition and appellant has lodged an appeal here from the order.

It is clear from the record that appellant was in the custody of the Arkansas Department of Correction in Chicot County when he filed the petition for writ of habeas corpus. We affirm the decision of the trial court because the Circuit Court of Ashley County could not grant the relief sought by appellant.

Any petition for writ of habeas corpus to effect the release of a prisoner is properly addressed

to the circuit court in the county in which the prisoner is held in custody, unless the petition is filed pursuant to Act 1780 of 2001.¹ *Lukach v. State*, 369 Ark. 475, ___ S.W.3d ___ (2007) (per curiam). A circuit court does not have jurisdiction to release a prisoner not in custody in that court's jurisdiction on a writ of habeas corpus. *Pardue v. State*, 338 Ark. 606, 999 S.W.2d 198 (1999) (per curiam) (citing *Mackey v. Lockhart*, 307 Ark. 321, 819 S.W.2d 702 (1991)). Here, appellant did not invoke Act 1780, and the Ashley County Circuit Court did not have personal jurisdiction to release an appellant who was held in another county.

Affirmed.

¹Act 1780 of 2001, as amended by Act 2250 of 2005 and codified as Ark. Code Ann. §§ 16-112-201–16-112-208 (Repl. 2006), provides that a writ of habeas corpus can issue based upon new scientific evidence proving a person actually innocent of the offense or offenses for which he or she was convicted.