

# ARKANSAS SUPREME COURT

No. CR 07-411

DOYLE A. JONES  
Appellant

v.

STATE OF ARKANSAS  
Appellee

Opinion Delivered      November 29, 2007

PRO SE APPEAL FROM THE CIRCUIT  
COURT OF WASHINGTON COUNTY,  
CR 2003-850, HON. KIM M. SMITH,  
JUDGE

AFFIRMED.

## PER CURIAM

Appellant Doyle A. Jones is an inmate incarcerated in the Arkansas Department of Correction. In 2006, appellant filed a petition for writ of habeas corpus in Washington County Circuit Court that was denied. He now brings this appeal, claiming error by the court in denying his petition. As the petition was properly dismissed, we affirm the order denying relief.

A jury found appellant guilty of arson and sentenced him to 480 months' imprisonment in the Arkansas Department of Correction. The Arkansas Court of Appeals affirmed the judgment. *Jones v. State*, CACR 04-632 (Ark. App. Mar. 16, 2005). Appellant then filed in the trial court a pro se petition for postconviction relief under Ark. R. Crim. P. 37.1 that was denied. Appellant failed to perfect an appeal to this court, and his motion for rule on clerk was denied. *Jones v. State*, CR 06-297 (Ark. Apr. 20, 2006) (per curiam). Appellant's motion for reconsideration of that order was denied. *Jones v. State*, CR 06-297 (Ark. June 22, 2006) (per curiam). Appellant also filed additional pleadings in the trial court requesting that the record be lodged. We upheld the order denying that

relief. *Jones v. State*, CR 06-357 (Ark. Sept. 28, 2006) (per curiam).

On October 23, 2006, appellant filed a petition requesting habeas corpus relief in the trial court. The petition requested relief pursuant to Ark. Code Ann. §§ 16-112-201–16-112-207 (Repl. 2006), but cited code sections not in existence as the specific basis for the petition. The petition referenced actual innocence and DNA evidence, but presented arguments and requested relief based upon sufficiency of the evidence at trial, ineffective assistance of counsel, prosecutorial misconduct, speedy-trial violations, and other issues properly addressed on direct appeal or through a Rule 37.1 petition. The petition did not appear to be grounded upon any claims concerning jurisdiction or facial invalidity of the judgment.

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. *Lukach v. State*, 369 Ark. 475, \_\_\_ S.W.3d \_\_\_ (2007) (per curiam). Appellant is not, and was not at the time the petition was filed, incarcerated in Washington County. As the State argues in its brief, the trial court would have lacked jurisdiction to consider any habeas petition other than one under Act 1780.

Act 1780 was amended by Act 2250 of 2005, effective August 12, 2005. As revised, Act 1780 contains a number of predicate requirements to be met before a circuit court can order any relief. *Douthitt v. State*, 366 Ark. 579, \_\_\_ S.W.3d \_\_\_ (2006) (per curiam). In particular, as concerns this case, section 16-112-202 provides the form that a motion for relief under the act must follow, and, in subsection (1), states that the motion must be for testing of specific evidence that was secured as a result of the conviction challenged. Section 16-112-202(6) further indicates that the petitioner must identify a theory of defense that is not inconsistent with an affirmative defense

presented at the trial and that would establish the actual innocence of the petitioner. Appellant's petition did not identify any specific evidence to be tested or a theory of defense. As a request for relief under Act 1780, appellant's petition also failed.

As evidenced both in the petition and his brief to this court, appellant clearly believes that he is entitled to use a habeas proceeding as another means to contest rulings during the trial and in his Rule 37.1 petition proceeding. He is mistaken. Any such challenges should have been raised on direct appeal or in an appeal of a petition under Rule 37.1, and Act 1780 does not provide a substitute for those remedies. *See Graham v. State*, 358 Ark. 296, 188 S.W.3d 893 (2004) (per curiam) (decision under prior law). Because appellant's petition for writ of habeas corpus did not comply with the procedural requirements of our statutes, the trial court did not err in denying relief.

Affirmed.