

SUPREME COURT OF ARKANSAS

Malone v. Hobbs

2013 Ark. 334 (2013) · No. CV-11-709 · Decided September 19, 2013

SUMMARY

The Supreme Court of Arkansas affirmed the dismissal of Herbert Phillip Malone’s petition for a writ of habeas corpus. The court held that Malone failed to show that defects in his extradition or the length of his sentence rendered the judgment facially invalid or deprived the trial court of jurisdiction. The court also declined to revisit the previously resolved challenge to his sentence.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Arkansas
DECIDED	September 19, 2013
DOCKET	CV-11-709
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Lincoln County Circuit Court's dismissal of a pro se petition for writ of habeas corpus.
STANDARD OF REVIEW	A circuit court's denial of habeas relief will not be reversed unless the court's findings are clearly erroneous.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion
PARTIES	Herbert Phillip Malone v. Ray Hobbs, Director, Arkansas Department of Correction

TOPICS

- habeas corpus
- state post-conviction relief
- sentencing
- appellate procedure
- criminal procedure

PRACTICE AREAS

- Post-conviction criminal procedure
- Habeas corpus
- Sentencing

QUESTIONS PRESENTED

1. Whether alleged defects in Malone's extradition from Tennessee rendered the Arkansas judgment-and-commitment order facially invalid or deprived the Arkansas circuit court of jurisdiction.
2. Whether Malone's aggregate 348-year sentence was outside the statutory range or otherwise illegal and therefore cognizable in habeas corpus.

HOLDINGS

1. A habeas writ was not warranted because Malone failed to establish that the extradition procedure rendered the judgment-and-commitment order facially invalid or deprived the Arkansas circuit court of subject-matter or personal jurisdiction.
2. The sentence was not illegal merely because it exceeded the ordinary human life span, and the issue could not be relitigated in this habeas appeal because it had been resolved in prior proceedings.

KEY QUOTATIONS

“A writ of habeas corpus is proper only when a judgment of conviction is invalid on its face or when a circuit court lacked jurisdiction over the cause.” (at 2)

“The burden is on the petitioner in a habeas corpus petition to establish that the trial court lacked jurisdiction or that the commitment was invalid on its face; otherwise, there is no basis for a finding that a writ of habeas corpus should issue.” (at 2)

“The law-of-the-case doctrine dictates that an issue raised and concluded in a prior appellate decision may not be revisited in a subsequent appeal, as the matter becomes res judicata.” (at 3)

FACTUAL BACKGROUND

In 1986, a jury convicted Herbert Phillip Malone of aggravated robbery, aggravated assault, and theft of property. He was sentenced as a habitual offender to an aggregate term of 348 years' imprisonment. Malone was later incarcerated in Lincoln County and challenged his custody through a habeas petition, asserting that his extradition from Tennessee was procedurally defective and that his sentence exceeded the lawful range.

PROCEDURAL HISTORY

Malone was convicted in 1986 of aggravated robbery, aggravated assault, and theft of property and received an aggregate 348-year sentence as a habitual offender. After the conviction was affirmed, he filed a habeas petition in Lincoln County Circuit Court challenging the extradition procedure used to bring him from Tennessee and arguing that his sentence exceeded the statutory range. The circuit court dismissed the petition, and the Supreme Court of Arkansas affirmed.

DISPOSITION

affirmed

CASES CITED

- Malone v. State, 292 Ark. 243, 729 S.W.2d 167 (1987)

- Darrough v. State, 2013 Ark. 28 (per curiam)
- McArty v. Hobbs, 2012 Ark. 257 (per curiam)
- Roberson v. State, 2013 Ark. 75 (per curiam)
- Murry v. Hobbs, 2013 Ark. 64 (per curiam)
- Davis v. Reed, 316 Ark. 575, 873 S.W.2d 524 (1994)
- Young v. Norris, 365 Ark. 219, 226 S.W.3d 797 (2006) (per curiam)
- Malone v. State, 294 Ark. 127, 741 S.W.2d 246 (1987) (per curiam)
- Malone v. State, CR-97-656 (Ark. Feb. 2, 1998) (per curiam)
- Kelly v. Norris, 2013 Ark. 90 (per curiam)
- Mosley v. Norris, 2010 Ark. 501 (per curiam)
- Reed v. Hobbs, 2012 Ark. 61 (per curiam)
- Anderson v. State, 2011 Ark. 35 (per curiam)
- Baker v. Norris, 369 Ark. 405, 255 S.W.3d 466 (2007)