

SUPREME COURT OF ARKANSAS

Jones v. Hobbs

2015 Ark. 251 (2015) · No. CV-15-223 · Decided May 28, 2015

SUMMARY

The Arkansas Supreme Court dismissed Charles Edward Jones’s appeal from the denial of his amended habeas corpus petition. The court held that Jones’s claims concerning sufficiency of the evidence, ineffective assistance of counsel, witness credibility, and speedy trial were not cognizable in a habeas proceeding and did not establish a jurisdictional or facial-invalidity basis for relief. His motion to duplicate his brief at state expense was therefore moot.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Arkansas
DECIDED	May 28, 2015
DOCKET	CV-15-223
DISPOSITION	dismissed
PROCEDURAL POSTURE	Jones appealed the denial of a motion to amend a previously filed petition for writ of habeas corpus and moved for duplication of his brief at state expense.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion
PARTIES	Charles Edward Jones v. Ray Hobbs, Director, Arkansas Department of Correction

TOPICS

- state post-conviction relief
- habeas corpus
- appellate procedure
- ineffective assistance
- speedy trial

PRACTICE AREAS

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

QUESTIONS PRESENTED

1. Whether Jones's amended habeas petition alleged a cognizable basis for issuance of a writ of habeas corpus.
2. Whether allegations concerning sufficiency of the evidence, witness credibility, ineffective assistance of counsel, and speedy-trial violations can support Arkansas habeas relief.
3. Whether Jones's motion to duplicate his brief at state expense remained viable after dismissal of the appeal.

HOLDINGS

1. A habeas petitioner who does not proceed under Act 1780 of 2001 on an actual-innocence claim must plead either the facial invalidity of the judgment or the trial court's lack of jurisdiction and make a showing by affidavit or other evidence of probable cause to believe that the petitioner is illegally detained.
2. The sufficiency of the evidence is not cognizable in a habeas proceeding, and attacks on the credibility of trial witnesses do not provide grounds for habeas relief.
3. An allegation of ineffective assistance of counsel is not a ground for an Arkansas writ of habeas corpus and should instead be raised in a timely petition for postconviction relief under Arkansas Rule of Criminal Procedure 37.1.
4. A claim alleging denial of a speedy trial is not within the purview of a habeas proceeding.
5. An appeal from the denial of a habeas petition will be dismissed when it is clear that the petitioner did not allege grounds on which the writ could be granted.

KEY QUOTATIONS

“A petitioner for the writ who does not allege his actual innocence and proceed under Act 1780 of 2001 Acts of Arkansas must plead either the facial invalidity of the judgment or the lack of jurisdiction by the trial court and make a showing by affidavit or other evidence of probable cause to believe that he is illegally detained.”
(1)

“It is well settled that the question of the sufficiency of the evidence is not cognizable in a habeas proceeding.” (2)

“An allegation of ineffective assistance of counsel is also not a ground for the writ.” (2)

FACTUAL BACKGROUND

Jones was convicted by a jury in 2009 of four counts of rape and received an aggregate sentence of 1920 months' imprisonment. In his proposed amended habeas petition, he argued that the State failed to prove the offenses, counsel failed to preserve the alleged insufficiency issue, a victim's deposition suggested the crimes occurred in another state, and a speedy-trial violation deprived the trial court of jurisdiction. The Arkansas Supreme Court concluded that these allegations did not state cognizable grounds for habeas relief.

PROCEDURAL HISTORY

Jones filed a pro se motion to amend a habeas petition in the Chicot County Circuit Court and submitted a proposed amended petition challenging a 2009 judgment for four rape convictions and an aggregate sentence of 1920 months. The circuit court denied the amended petition. Jones appealed, and the Arkansas Supreme Court dismissed the appeal as meritless and declared his motion to duplicate his brief moot.

DISPOSITION

dismissed

CASES CITED

- Sims v. Hobbs, 2014 Ark. 503, 451 S.W.3d 203 (per curiam)
- Walker v. State, 2015 Ark. 153 (per curiam)
- Baker v. Norris, 369 Ark. 405, 255 S.W.3d 466 (2007)
- Nelson v. State, 2015 Ark. 168 (per curiam)
- White v. Norris, 2009 Ark. 446 (per curiam)
- McConaughy v. Lockhart, 310 Ark. 686, 840 S.W.2d 166 (1992)
- Griffis v. Hobbs, 2015 Ark. 121 (per curiam)
- Robinson v. Felts, 2015 Ark. 174 (per curiam)

OPINION

PER CURIAM.

Cite as 2015 Ark. 251 SUPREME COURT OF ARKANSAS No. CV-15-223 CHARLES EDWARD JONES Opinion Delivered May 28, 2015 APPELLANT PRO SE MOTION TO DUPLICATE V. BRIEF AT STATE EXPENSE [CHICOT COUNTY CIRCUIT COURT, NO. 09CV-13-72] RAY HOBBS, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION HONORABLE DON GLOVER, JUDGE APPELLEE APPEAL DISMISSED; MOTION MOOT. PER CURIAM In 2014, appellant Charles Edward Jones filed a pro se motion to amend a previously filed petition for writ of habeas corpus in the circuit court of the county where he was incarcerated.¹ Jones submitted his proposed amended petition with the motion.

In the petition, Jones challenged a 2009 judgment that reflected his jury conviction on four counts of rape and an aggregate sentence of 1920 months' imprisonment in the Arkansas Department of Correction. Jones lodged an appeal of the denial of the amended petition in this court.

Before us is his motion requesting duplication of his brief at the State's expense. Because we dismiss the appeal, the motion is moot. An appeal of the denial of postconviction relief, including an appeal from an order that denied a petition for writ of habeas corpus, will not be permitted to go forward where the appeal is without merit. Sims v. Hobbs, 2014 Ark.

503, 451 S.W.3d 203 (per curiam). A review of the 1 As of the date of this opinion, Jones remains incarcerated in Chicot County. Cite as 2015 Ark. 251 petition has made it clear that Jones's appeal is without merit. A petitioner for the writ who does not allege his actual innocence and proceed under Act 1780 of 2001 Acts of Arkansas must plead either the facial invalidity of the judgment or the lack of jurisdiction by the trial court and make a showing by affidavit or other evidence of probable cause to believe that he is illegally detained.

Ark. Code Ann. § 16-112-103(a)(1) (Repl. 2006). A petitioner who seeks a writ of habeas corpus has the burden to establish that the trial court lacked jurisdiction or that the commitment was invalid on its face. *Walker v. State*, 2015 Ark. 153 (per curiam). Unless the petitioner pleads one of these two grounds for relief and makes a showing of probable cause to believe that he is illegally detained, there is no basis for a finding that a writ of habeas corpus should issue.

Baker v. Norris, 369 Ark. 405, 255 S.W.3d 466 (2007). The amended petition alleged two grounds for the writ. In the first claim, Jones contended that the State failed to prove all elements of the offenses, that counsel did not preserve the issue of failure of proof for appeal, and that one of the victims had made a statement in a deposition that the crimes occurred in another state.

In the second claim, Jones asserted that the trial court lost jurisdiction because a speedy-trial violation occurred. Jones's first claim for relief essentially challenged the sufficiency of the evidence and alleged ineffective assistance of counsel. Jones's allegation that the deposition statement of one of the victims showed that the crimes occurred outside the court's jurisdiction was nothing more than an attempt to challenge the credibility of the victims' testimony at trial.

It is well settled that the question of the sufficiency of the evidence is not cognizable in a habeas proceeding. *Nelson v. State*, 2015 Ark. 168 (per curiam). Attacks on the credibility of the witnesses do not provide 2 Cite as 2015 Ark. 251 grounds to grant the writ. *White v. Norris*, 2009 Ark. 446 (per curiam). An allegation of ineffective assistance of counsel is also not a ground for the writ.

McConaughy v. Lockhart, 310 Ark. 686, 840 S.W.2d 166 (1992). Any allegation concerning counsel's effectiveness should have been raised in a timely petition for postconviction relief under Arkansas Rule of Criminal Procedure 37.1. *Griffis v. Hobbs*, 2015 Ark. 121 (per curiam). Like his first claim, Jones's second claim is also not a cognizable claim for the writ.

Denial of a speedy trial is not an issue within the purview of a habeas proceeding. *Id.* Jones's petition did not contain cognizable grounds for the writ to issue. This court dismisses an appeal of the denial of a petition for a writ of habeas where it is clear that the appellant did not allege grounds in his petition on which the writ could be granted. *Robinson v. Felts*, 2015 Ark.

174 (per curiam). Appeal dismissed; motion moot. 3

