

# SUPREME COURT OF ARKANSAS

No. CV-23-633

Opinion Delivered: May 9, 2024

CHARLES EDWARD HARRIS, JR.  
APPELLANT

v.

WHITNEY GASS, WILLIAM BYERS,  
DEXTER PAYNE, BUDDY  
CHADICK,  
JOHN FELTS, TYRONE  
BROOMFIELD, JOHN DOE, AND  
BOBBY GLOVER

APPELLEES

APPEAL FROM THE LINCOLN  
COUNTY CIRCUIT COURT  
[NO. 40CV-23-34]

HONORABLE JODI RAINES  
DENNIS, JUDGE

AFFIRMED; PETITION FOR  
RECONSIDERATION DENIED.

COURTNEY RAE HUDSON, Associate Justice

Appellant Charles Edward Harris, Jr., appeals the denial and dismissal of his pro se petition for writ of habeas corpus filed pursuant to Arkansas Code Annotated section 16-112-101 (Repl. 2016) in Lincoln County, which is the county where he is incarcerated. For reversal, Harris argues that (1) the special judge who presided over his criminal trial was not properly appointed in compliance with amendment 80 and Arkansas Supreme Court Administrative Order No. 16, and therefore, the circuit court lacked jurisdiction; and (2) that his convictions violated the prohibition against double jeopardy. We affirm the circuit court's denial of Harris's habeas petition and deny Harris's petition for reconsideration.

A Pulaski County jury convicted Harris of first-degree battery and a terroristic act after he fired eight or nine gunshots into a vehicle occupied by the victim and the victim's friend. The gunshots shattered the vehicle's rear window and injured the victim. Harris was

sentenced as a habitual offender to an aggregate term of 180 months'—or fifteen years'—imprisonment. Harris's conviction and sentences were affirmed by the Arkansas Court of Appeals. *Harris v. State*, 2010 Ark. App. 247.

A circuit court's decision on a petition for writ of habeas corpus will be upheld unless it is clearly erroneous. *Hobbs v. Gordon*, 2014 Ark. 225, 434 S.W.3d 364. A decision is clearly erroneous when, although there is evidence to support it, the appellate court, after reviewing the entire evidence, is left with the definite and firm conviction that a mistake has been made. *Id.* Harris insists that a special judge, Dale Adams, was appointed to replace Judge Herbert Wright in contravention of amendment 80 of the Arkansas Constitution as well as Administrative Order No. 16. Amendment 80 and Administrative Order No. 16 provide that the Chief Justice of the Arkansas Supreme Court has the authority to assign a special judge under rules adopted by the Arkansas Supreme Court. *See Russell v. Payne*, 2020 Ark. 377. Harris offers no substantial evidence that the appointment of Special Judge Dale Adams failed to comply with amendment 80 or Administrative Order No. 16, other than an allegation that the process of appointing a special judge was not included in the transcript filed on direct appeal. The record on appeal includes only those materials relevant to the issues on appeal. *Busbee v. Ark. Dep't of Health & Hum. Servs.*, 369 Ark. 416, 255 S.W.3d 463 (2007). Additionally, a challenge to the appointment of a special judge is not cognizable in habeas proceedings.

A writ of habeas corpus is proper when a judgment and commitment order is invalid on its face or when a circuit court lacks jurisdiction over the cause. *Finney v. Kelley*, 2020 Ark. 145, 598 S.W.3d 26. Jurisdiction is the power of the court to hear and determine the

subject matter in controversy. *Id.* When the circuit court has personal jurisdiction over the appellant and has jurisdiction over the subject matter, the court has authority to render the judgment. *Id.* A circuit court has subject-matter jurisdiction to hear and determine cases involving violations of criminal statutes and has personal jurisdiction over offenses committed within the county over which it presides. *Fuller/Akbar v. Payne*, 2021 Ark. 155, 628 S.W.3d 366. In Arkansas, a circuit court has subject-matter jurisdiction of all justiciable matters, including criminal matters. *Jackson v. Payne*, 2022 Ark. 10, 636 S.W.3d 765. The circuit court has personal jurisdiction over offenses committed within the county over which it presides. *Fuller/Akbar*, 2021 Ark. 155, 628 S.W.3d 366. A challenge to the appointment of an individual judge to preside over a criminal case is a nonjurisdictional issue and is a matter of trial error that should have been raised at trial and on direct appeal. *Id.* Harris committed the two offenses in Pulaski County and was properly tried before a circuit court that had both personal and subject-matter jurisdiction.

Harris next claims that his convictions for first-degree battery and a terroristic act violate the prohibition against double jeopardy because the two offenses arose from the same continuing course of conduct, and first-degree battery and a terroristic act share the same elements. Harris's double-jeopardy claim is equally unavailing. Each gunshot fired by Harris represented a separate criminal act that supports separate criminal charges, such as a charge of a terroristic act and first-degree battery. *Lee v. State*, 2017 Ark. 337, 532 S.W.3d 43; *see also McLennan v. State*, 337 Ark. 83, 987 S.W.2d 668 (1999) (firing three shots into an apartment constituted three separate terroristic acts). Because firing multiple gunshots are

considered distinct criminal acts, there is no need to decide whether the elements in different charges overlap. *Lee*, 2017 Ark. 337, 532 S.W.3d 43.

A petitioner for the writ who does not allege his or her actual innocence and proceed under Act 1780 of 2001 must plead either the facial invalidity of the judgment or the circuit court's lack of jurisdiction and make a showing, by affidavit or other evidence, of probable cause to believe that he or she is being illegally detained. *Id.* (citing Ark. Code Ann. § 16-112-103(a)(1) (Repl. 2016)). Unless the petitioner can show that the circuit court lacked jurisdiction or that the commitment order was invalid on its face, there is no basis for a finding that a writ of habeas corpus should issue. *Id.* In habeas proceedings, an illegal sentence is one that exceeds the statutory maximum sentence. *See Hobbs v. Turner*, 2014 Ark. 19, 431 S.W.3d 283. If a petitioner does not show that on the face of the commitment order there was an illegal sentence imposed, the claim does not implicate the jurisdiction of the court to hear the case, and the claim is not one that is cognizable in a habeas proceeding. *Proctor v. Payne*, 2020 Ark. 142, 598 S.W.3d 17.

Harris did not challenge the facial legality of his sentences for the two offenses. The concurrent sentences of 180 months' imprisonment do not exceed the statutory maximum for the crimes for which he was convicted. *See Ark. Code Ann. § 5-13-201(c) (Supp. 2007)* (first-degree battery is a Class B felony); *see also Ark. Code Ann. § 5-13-310(b)(2)* (a terroristic act is a Class Y felony if, with the purpose to cause physical injury, physical injury is caused to another person). Under the habitual-offender act, Harris was subject to a maximum term of forty years for first-degree battery and a maximum term of life

imprisonment for a terroristic act. *See Ark. Code Ann. § 5-4-501(b)(2)* (Repl. 2006). The circuit court did not err when it denied and dismissed Harris's habeas petition.

Additional allegations were raised in the petition filed in the circuit court but have not been raised on appeal and are therefore abandoned. *See Anderson v. State*, 2011 Ark. 461, 385 S.W.3d 214. The circuit court found that Harris had failed to demonstrate that he was being illegally detained and denied and dismissed the petition. Harris has also filed a petition for reconsideration and rehearing of this court's per curiam order entered on February 22, 2024, that denied Harris's motion to supplement the record with uncertified documents. Only documents certified by the circuit clerk provide this court with appellate jurisdiction. *Bannister v. State*, 2013 Ark. 412 (per curiam).

Affirmed; petition for reconsideration denied.

FORMAL ORDER

STATE OF ARKANSAS, )

)

SUPREME COURT )

)

BE IT REMEMBERED, THAT A SESSION OF THE SUPREME COURT  
BEGUN AND HELD IN THE CITY OF LITTLE ROCK, ON JULY 18, 2024, AMONGST  
OTHERS WERE THE FOLLOWING PROCEEDINGS, TO-WIT:

SUPREME COURT CASE NO. CV-23-633

CHARLES EDWARD HARRIS, JR.

APPELLANT

V. APPEAL FROM LINCOLN COUNTY CIRCUIT COURT – 40CV-23-34

WHITNEY GASS, WILLIAM BYERS, DEXTER PAYNE, BUDDY  
CHADICK, JOHN FELTS, TYRONE BROOMFIELD, JOHN DOE,  
AND BOBBY GLOVER

APPELLEES

APPELLANT'S PRO SE PETITION FOR REHEARING IS DENIED.

IN TESTIMONY, THAT THE ABOVE IS A TRUE COPY OF  
THE ORDER OF SAID SUPREME COURT, RENDERED IN  
THE CASE HEREIN STATED, I, KYLE E. BURTON,  
CLERK OF SAID SUPREME COURT, HEREBY  
SET MY HAND AND AFFIX THE SEAL OF SAID  
SUPREME COURT, AT MY OFFICE IN THE CITY OF  
LITTLE ROCK, THIS 18TH DAY OF JULY, 2024.



CLERK

ORIGINAL TO CLERK

CC: CHARLES EDWARD HARRIS, JR.  
JASON MICHAEL JOHNSON, ASSISTANT ATTORNEY GENERAL  
HON. JODI RAINES DENNIS, CIRCUIT JUDGE

Appx. C

**WESTLAW****Harris v. Gass**

Supreme Court of Arkansas. May 9, 2024 2024 Ark. 78 687 S.W.3d 794 (Approx. 9 pages)

2024 Ark. 78

Supreme Court of Arkansas.

Charles Edward **HARRIS**, Jr., Appellant

v.

Whitney **GASS**, William Byers, Dexter Payne, Buddy Chadick, John Felts, Tyrone Broomfield, John Doe, and Bobby Glover, Appellees

Appx A

No. CV-23-633

Opinion Delivered: May 9, 2024

**Synopsis**

**Background:** Following affirmance of his conviction for first-degree battery and a terroristic act after he fired eight or nine gunshots into a vehicle, 2010 Ark. App. 247, defendant filed a pro se petition for writ of habeas corpus. The Circuit Court, Lincoln County, Jodi Dennis, J., denied and dismissed the petition. Defendant appealed and petitioned for reconsideration.

**Holdings:** The Supreme Court, Hudson, J., held that:

- 1 circuit court had personal and subject matter jurisdiction in order to convict defendant;
- 2 defendant's conviction for first-degree battery and a terroristic act did not violate the prohibition against double jeopardy; and
- 3 defendant failed to demonstrate that he was being illegally detained as a result of his conviction, as required to issue writ of habeas corpus when not alleging actual innocence and avoid dismissal of his habeas petition.

Affirmed; petition for reconsideration denied.

Appellate ReviewPost-Conviction Review

**West Headnotes (18)**

Change View

- 1 **Criminal Law** Courts Invested with Criminal Jurisdiction  
**Criminal Law** Jurisdiction of the person  
Circuit court had personal and subject matter jurisdiction in order to convict defendant of first-degree battery and a terroristic act, despite defendant's contention in pro se petition for writ of habeas corpus that special judge who presided over his criminal case was not properly appointed in compliance with amendment to constitution and Supreme Court administrative order providing that chief justice of Supreme Court had the authority to assign special judge; defendant offered no substantial evidence that appointment of special judge failed to comply with amendment or administrative order other than an allegation that the process of appointing a special judge was not included in the transcript filed on direct appeal, and defendant committed the two offenses in county in which he was convicted. Ark. Const. amend. 80; Ark. Supreme Court Administrative Order Number 16.
- 2 **Habeas Corpus** Clear error  
Circuit court's decision on a petition for writ of habeas corpus will be upheld unless it is clearly erroneous.

Appx. A ⑩

3 **Appeal and Error** Definite or firm conviction of mistake  
Decision is clearly erroneous when, although there is evidence to support it, the appellate court, after reviewing the entire evidence, is left with the definite and firm conviction that a mistake has been made.

4 **Appeal and Error** Presentation and Reservation of Grounds of Review  
Record on appeal includes only those materials relevant to the issues on appeal.

5 **Habeas Corpus** Courts; judges, magistrates, or officers  
Challenge to the appointment of a special judge is not cognizable in habeas proceedings.

6 **Habeas Corpus** Jurisdictional Defects  
**Habeas Corpus** Void or invalid judgment or order  
Writ of habeas corpus is proper when a judgment and commitment order is invalid on its face or when a circuit court lacks jurisdiction over the cause.

7 **Courts** Jurisdiction of Cause of Action  
"Jurisdiction" is the power of the court to hear and determine the subject matter in controversy.

8 **Criminal Law** Courts Invested with Criminal Jurisdiction  
**Criminal Law** Jurisdiction of the person  
When the circuit court has personal jurisdiction over criminal defendant and has jurisdiction over the subject matter, the court has authority to render the judgment.

9 **Criminal Law** Courts Invested with Criminal Jurisdiction  
**Criminal Law** Locality of Offense  
Circuit court has subject matter jurisdiction to hear and determine cases involving violations of criminal statutes and has personal jurisdiction over offenses committed within the county over which it presides.

10 **Courts** Arkansas  
**Criminal Law** Courts Invested with Criminal Jurisdiction  
Circuit court has subject matter jurisdiction of all justiciable matters, including criminal matters.

11 **Criminal Law** Locality of Offense  
Circuit court has personal jurisdiction over offenses committed within the county over which it presides.

12 **Habeas Corpus** Exhaustion and procedural default, in general  
**Habeas Corpus** Trial  
Defendant's challenge to appointment of special judge to preside over his criminal trial for first-degree battery and terroristic threat was not cognizable in habeas proceeding, since challenge to appointment of judge was a nonjurisdictional issue and a matter of trial error that defendant could have raised at trial and on direct appeal. Ark. Code Ann. § 16-112-101.

13 **Double Jeopardy** Assault, battery, or armed violence  
Defendant's conviction for first-degree battery and a terroristic act did not violate the prohibition against double jeopardy, despite defendant's claim the two offenses arose from the same continuing course of conduct and shared the same elements; each gunshot defendant fired into the vehicle occupied by victim and victim's friend represented a separate criminal act that supported separate criminal charges. U.S. Const. Amend. 5.

14 **Habeas Corpus** Void sentence  
**Habeas Corpus** Excessiveness  
Defendant failed to demonstrate that he was being illegally detained as a result of his conviction for first-degree battery and a terroristic act, as required to issue writ of habeas corpus when not alleging actual innocence and avoid dismissal of his habeas petition; defendant did not challenge the facial legality of his sentences for the offenses of first-degree battery and a terroristic act, and defendant's concurrent sentences of 180 months' imprisonment did not exceed the statutory maximum for the crimes for which defendant was convicted. Ark. Code Ann. §§ 5-4-501(b)(2), 5-13-201(c), 5-13-310(b)(2), 16-112-103(a)(1).

15 **Habeas Corpus** Jurisdictional Defects  
**Habeas Corpus** Void or invalid judgment or order  
**Habeas Corpus** Weight and sufficiency in general  
Petitioner for the writ of habeas corpus who does not allege his or her actual innocence must plead either the facial invalidity of the judgment or the circuit court's lack of jurisdiction and make a showing, by affidavit or other evidence, of probable cause to believe that he or she is being illegally detained. Ark. Code Ann. § 16-112-103(a)(1).

16 **Habeas Corpus** Excessiveness  
In habeas proceedings, an illegal sentence is one that exceeds the statutory maximum sentence. Ark. Code Ann. § 16-112-103(a)(1).

17 **Habeas Corpus** Judgment, Sentence, or Order  
If a habeas petitioner does not show that on the face of the commitment order there was an illegal sentence imposed, the claim does not implicate the jurisdiction of the court to hear the case, and the claim is not one that is cognizable in a habeas proceeding. Ark. Code Ann. § 16-112-103(a)(1).

18 **Appeal and Error** Necessity of certification  
Only documents certified by the circuit clerk provide the Supreme Court with appellate jurisdiction.

\*\*796 APPEAL FROM THE LINCOLN COUNTY CIRCUIT COURT [NO. 40CV-23-34],  
HONORABLE JODI RAINES DENNIS, JUDGE

#### Attorneys and Law Firms

Charles Edward Harris, Jr., pro se appellant.

Tim Griffin, Att'y Gen., by: Jason Michael Johnson, Ass't Att'y Gen., for appellee.

#### Opinion

COURTNEY RAE HUDSON, Associate Justice

\*1 Appellant Charles Edward Harris, Jr., appeals the denial and dismissal of his pro se petition for writ of habeas corpus filed pursuant to Arkansas Code Annotated section 16-112-101 (Repl. 2016) in Lincoln County, which is the county where he is incarcerated. For

reversal, **Harris** argues that (1) the special judge who presided over his criminal trial was not properly appointed in compliance with amendment 80 and Arkansas Supreme Court Administrative Order No. 16, and therefore, the circuit court lacked jurisdiction; and (2) that his convictions violated the prohibition against double jeopardy. We affirm the circuit court's denial of **Harris**'s habeas petition and deny **Harris**'s petition for reconsideration.

A Pulaski County jury convicted **Harris** of first-degree battery and a terroristic act after he fired eight or nine gunshots into a vehicle occupied by the victim and the victim's \*2 friend. The gunshots shattered the vehicle's rear window and injured the victim. **Harris** was sentenced as a habitual offender to an aggregate term of 180 months'—or fifteen years'—imprisonment. **Harris**'s conviction and sentences were affirmed by the Arkansas Court of Appeals. *Harris v. State*, 2010 Ark. App. 247, 2010 WL 816319.

1 2 3 4 5 A circuit court's decision on a petition for writ of habeas corpus will be \*\*797 upheld unless it is clearly erroneous. *Hobbs v. Gordon*, 2014 Ark. 225, 434 S.W.3d 364. A decision is clearly erroneous when, although there is evidence to support it, the appellate court, after reviewing the entire evidence, is left with the definite and firm conviction that a mistake has been made. *Id.* **Harris** insists that a special judge, Dale Adams, was appointed to replace Judge Herbert Wright in contravention of amendment 80 of the Arkansas Constitution as well as Administrative Order No. 16. Amendment 80 and Administrative Order No. 16 provide that the Chief Justice of the Arkansas Supreme Court has the authority to assign a special judge under rules adopted by the Arkansas Supreme Court. See *Russell v. Payne*, 2020 Ark. 377, 2020 WL 6790939. **Harris** offers no substantial evidence that the appointment of Special Judge Dale Adams failed to comply with amendment 80 or Administrative Order No. 16, other than an allegation that the process of appointing a special judge was not included in the transcript filed on direct appeal. The record on appeal includes only those materials relevant to the issues on appeal. *Busbee v. Ark. Dep't of Health & Hum. Servs.*, 369 Ark. 416, 255 S.W.3d 463 (2007). Additionally, a challenge to the appointment of a special judge is not cognizable in habeas proceedings.

6 7 8 9 10 11 12 A writ of habeas corpus is proper when a judgment and commitment order is invalid on its face or when a circuit court lacks jurisdiction over the cause. \*3 *Finney v. Kelley*, 2020 Ark. 145, 598 S.W.2d 26. Jurisdiction is the power of the court to hear and determine the subject matter in controversy. *Id.* When the circuit court has personal jurisdiction over the appellant and has jurisdiction over the subject matter, the court has authority to render the judgment. *Id.* A circuit court has subject-matter jurisdiction to hear and determine cases involving violations of criminal statutes and has personal jurisdiction over offenses committed within the county over which it presides. *Fuller/Akbar v. Payne*, 2021 Ark. 155, 628 S.W.3d 366. In Arkansas, a circuit court has subject-matter jurisdiction of all justiciable matters, including criminal matters. *Jackson v. Payne*, 2022 Ark. 10, 636 S.W.3d 765. The circuit court has personal jurisdiction over offenses committed within the county over which it presides. *Fuller/Akbar*, 2021 Ark. 155, 628 S.W.3d 366. A challenge to the appointment of an individual judge to preside over a criminal case is a nonjurisdictional issue and is a matter of trial error that should have been raised at trial and on direct appeal. *Id.* **Harris** committed the two offenses in Pulaski County and was properly tried before a circuit court that had both personal and subject-matter jurisdiction.

13 **Harris** next claims that his convictions for first-degree battery and a terroristic act violate the prohibition against double jeopardy because the two offenses arose from the same continuing course of conduct, and first-degree battery and a terroristic act share the same elements. **Harris**'s double-jeopardy claim is equally unavailing. Each gunshot fired by **Harris** represented a separate criminal act that supports separate criminal charges, such as a charge of a terroristic act and first-degree battery. *Lee v. State*, 2017 Ark. 337, 532 S.W.3d 43; see also *McLennan v. State*, 337 Ark. 83, 987 S.W.2d 668 (1999) (firing three shots into an apartment constituted three separate terroristic acts). Because firing multiple gunshots are \*4 considered distinct criminal acts, there is no need to decide whether the elements in different charges overlap. *Lee*, 2017 Ark. 337, 532 S.W.3d 43.

14 15 16 17 A petitioner for the writ who does not allege his or her actual innocence \*\*798 and proceed under Act 1780 of 2001 must plead either the facial invalidity of the judgment or the circuit court's lack of jurisdiction and make a showing, by

affidavit or other evidence, of probable cause to believe that he or she is being illegally detained. *Id.* (citing Ark. Code Ann. § 16-112-103(a)(1) (Repl. 2016)). Unless the petitioner can show that the circuit court lacked jurisdiction or that the commitment order was invalid on its face, there is no basis for a finding that a writ of habeas corpus should issue. *Id.* In habeas proceedings, an illegal sentence is one that exceeds the statutory maximum sentence. See *Hobbs v. Turner*, 2014 Ark. 19, 431 S.W.3d 283. If a petitioner does not show that on the face of the commitment order there was an illegal sentence imposed, the claim does not implicate the jurisdiction of the court to hear the case, and the claim is not one that is cognizable in a habeas proceeding. *Proctor v. Payne*, 2020 Ark. 142, 598 S.W.3d 17.

**Harris** did not challenge the facial legality of his sentences for the two offenses. The concurrent sentences of 180 months' imprisonment do not exceed the statutory maximum for the crimes for which he was convicted. See Ark. Code Ann. § 5-13-201(c) (Supp. 2007) (first-degree battery is a Class B felony); see also Ark. Code Ann. § 5-13-310(b)(2) (a terroristic act is a Class Y felony if, with the purpose to cause physical injury, physical injury is caused to another person). Under the habitual-offender act, **Harris** was subject to a maximum term of forty years for first-degree battery and a maximum term of life \*5 imprisonment for a terroristic act. See Ark. Code Ann. § 5-4-501(b)(2) (Repl. 2006). The circuit court did not err when it denied and dismissed **Harris**'s habeas petition.

18 Additional allegations were raised in the petition filed in the circuit court but have not been raised on appeal and are therefore abandoned. See *Anderson v. State*, 2011 Ark. 461, 385 S.W.3d 214. The circuit court found that **Harris** had failed to demonstrate that he was being illegally detained and denied and dismissed the petition. **Harris** has also filed a petition for reconsideration and rehearing of this court's per curiam order entered on February 22, 2024, that denied **Harris**'s motion to supplement the record with uncertified documents. Only documents certified by the circuit clerk provide this court with appellate jurisdiction. *Bannister v. State*, 2013 Ark. 412, 2013 WL 5595490 (per curiam).

Affirmed; petition for reconsideration denied.

#### All Citations

2024 Ark. 78, 687 S.W.3d 794

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IN THE CIRCUIT COURT OF LINCOLN COUNTY, ARKANSAS  
ELEVENTH JUDICIAL DISTRICT, WEST - FIFTH DIVISION

CHARLES HARRIS  
INMATE # 144543

PETITIONER

v. No. 40CV-23-34-5

DEXTER PAYNE, DIRECTOR,  
ARKANSAS DIVISION OF CORRECTION, et al.

RESPONDENTS

ORDER DISMISSING PETITION FOR WRIT OF HABEAS CORPUS

After the examination of the pleadings and review of applicable law, the Court finds:

A Pulaski County jury convicted petitioner, a habitual offender, of one count of terroristic act and one count of battery in the first degree. He was sentenced to concurrent terms of 15 years in the Arkansas Department of Correction.

Harris filed a 98-page petition containing repetitive claims and accompanied by hundreds of pages of attachments. Petitioner seeks habeas relief contending that the trial court lacked jurisdiction. His complaints span from the investigative stage of his case through his jury trial. His allegations are that his arrest warrant was invalid, the district court never exercised proper jurisdiction, the city clerk committed errors, the criminal Information was invalid, the prosecuting attorney acted in bad faith, his convictions violate his constitutional right to not be subjected to double jeopardy, and the state failed to prove all the elements of the charges. He argues that the procedure implemented to appoint a special judge to his case was in violation of Amendment 80 to the Arkansas Constitution, the trial judge failed to comply with Administrative Order 16, and that Amendment 80 is invalid.

Although Harris poses his issues as jurisdictional, they are not. All of his claims are ones that should have been addressed to the trial court, on direct appeal, or in a timely Rule 37 petition. *Wesson v. Hobbs*, 2014 Ark. 285 (per curiam); *Friend v. Norris*, 364 Ark. 315, 219 S.W.3d 123 (2005) (per curiam).

A habeas proceeding is not a tool to challenge trial court procedure, issues on direct appeal or postconviction relief. *Leach v. Kelley*, 2020 Ark. 200, 600 S.W.3d 568.

While some double-jeopardy claims are cognizable in habeas proceedings, where the petitioner does not show that on the face of the commitment order there was an illegal sentence imposed, the claim does not implicate the jurisdiction of the court to hear the case, and the claim is not one that is cognizable. *Edwards v. Kelley*, 2017 Ark. 254, 526 S.W.3d 825.

Petitioner has failed to make a showing, by affidavit or other evidence, of probable cause to believe that he is illegally detained. A.C.A. § 16-112-103(a)(1) (Repl. 2006); *Philyaw v. Kelley*, 2015 Ark. 465, 477 S.W.3d 503 (2015).

The petition is DENIED and DISMISSED.

IT IS SO ORDERED this 6<sup>th</sup> day of June 2023.



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JODI RAINES DENNIS  
CIRCUIT JUDGE  
40CV-23-34-5

**Additional material  
from this filing is  
available in the  
Clerk's Office.**