

SUPREME COURT OF ARKANSAS

No. CR-24-532

ERIC BURGIE

APPELLANT

v.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered: May 29, 2025

PRO SE APPEAL FROM THE
GARLAND COUNTY CIRCUIT
COURT
[NO. 26CR-00-366]

HONORABLE RALPH OHM, JUDGE
AFFIRMED.

RHONDA K. WOOD, Associate Justice

Appellant Eric Burgie filed for relief under Arkansas Code Annotated section 16-90-111 (Repl. 2016) to correct his sentence on the basis that the circuit court lacked jurisdiction. He alleged that, at the time of his conviction, aggravated robbery was not listed as an underlying felony for capital murder. Because res judicata applies, we hold the circuit court was not clearly erroneous in denying Burgie's petitions. We affirm.

In 2001, a jury convicted Burgie of capital murder and aggravated robbery and sentenced him to life imprisonment without parole. This court affirmed. *Burgie v. State*, CR-02-90 (Ark. Feb. 20, 2003) (unpublished per curiam). This appeal is from a May 7 order denying his petitions for in forma pauperis status and petitions to correct an illegal sentence.¹ We affirm the denial of relief.

¹Burgie filed multiple petitions, both for in forma pauperis status and relief under the statute, before the circuit court's order. He filed petitions on February 22, and April 15 (before the order), and on May 21, and August 15 (after the order).

On review, a circuit court's decision to deny relief under section 16-90-111 will be overturned only if that decision is clearly erroneous. *Harmon v. State*, 2023 Ark. 120, at 2, 673 S.W.3d 797, 799. A finding is clearly erroneous when the appellate court, after reviewing the entire evidence, is left with the definite and firm conviction that the circuit court made a mistake. *Id.*

Again, Burgie argues that the trial court did not have jurisdiction in his original criminal case. In 2001, he was convicted of capital murder with aggravated robbery as the underlying felony under Arkansas Code Annotated section 5-10-101 (Repl. 1997). Burgie has repeatedly asserted that the trial court lacked jurisdiction because aggravated robbery was not included in the list of underlying felonies. Burgie's argument has not only been asserted previously but has also been rejected by this court *See Burgie v. State*, 2016 Ark. 170 (per curiam) (noting this was the third time Burgie had raised the issue); *Burgie v. State*, 2016 Ark. 144 (per curiam); *Burgie v. Hobbs*, 2013 Ark. 360 (per curiam). We have addressed the issue in other cases as well. *See, e.g., Jefferson v. State*, 2023 Ark. 38, at 3, 660 S.W.3d 575, 578; *Nooner v. State*, 322 Ark. 87, 106, 907 S.W.2d 677, 687 (1995). Robbery was an underlying felony, and aggravated robbery is still robbery; therefore, aggravated robbery was an appropriate "underlying felony" to support a capital-murder conviction. *Id.*

The purpose of claim preclusion is to end litigation by preventing a party who has already had a fair trial on the matter from litigating it again. *Gulley v. State ex rel. Jegley*, 2023 Ark. 70, at 6, 664 S.W.3d 421, 425. Claim preclusion bars relitigating a subsequent suit when five factors are present: (1) the first suit resulted in a final judgment on the merits;

(2) the first suit was based on proper jurisdiction; (3) the first suit was fully contested in good faith; (4) both suits involve the same claim or cause of action; and (5) both suits involve the same parties or their privies. *Id.* at 6, 664 S.W.3d at 426.

Burgie's claims on this issue have been presented, litigated, and denied. For these reasons, we hold the circuit court's decision was not clearly erroneous and affirm. We put Burgie on notice that further attempts to litigate this issue may be summarily dismissed by this court or the circuit court.²

We decline to address the denial of his petition to proceed in forma pauperis. Any finding is now moot. *See, e.g., Lukach v. State*, 2020 Ark. 175.

Affirmed.

Special Justice DON CURDIE joins.

BRONNI, J., not participating.
and do not participate in this decision

² As explained, he has raised the issue four times now in this court as well as filing four petitions in 2024 alone in the circuit court.

IN THE CIRCUIT COURT OF GARLAND COUNTY, ARKANSAS
CRIMINAL DIVISION

**IN RE PETITION OF ERIC BURGIE
TO PROCEED IN FORMA PAUPERIS**

CASE NO. 26CR-00-366-I

ORDER DENYING PETITION TO PROCEED IN FORMA PAUPERIS
AND PETITION TO CORRECT ILLEGAL SENTENCE

On this 8th day of May 2024, the Petition for Leave to Proceed in Forma Pauperis along with all supplements to said pleadings filed on behalf of the Petitioner, have been reviewed by this Court. After review of the Petition for Leave to Proceed in Forma Pauperis, the Court finds that the Petition should be, and hereby, is denied. However, The Court has reviewed The Petition to Correct Illegal Sentence and finds that said Petition should be denied as well.

A review of all the pleadings submitted on behalf of the Defendant on or about February 22, 2024, by which the Defendant seeks to correct an illegal sentence, reveals that the Petitioner's request fails to state a cause of action upon which this relief can be granted. The Petition fails to assert any grounds for which relief could be granted. The Court has reviewed The Petition to Correct an Illegal Sentence. The Court's records reveal that the Defendant's convictions and sentence are proper and appropriate. It is for this reason, that the Petition for Leave to Proceed in Forma Pauperis and Petition to Correct Illegal Sentence are hereby denied.

APPENDIX B

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 17, 2025, AMONGST
OTHERS WERE THE FOLLOWING PROCEEDINGS, TO-WIT:**

SUPREME COURT CASE NO. CR-24-532

ERIC BURGIE APPRELLANT

V. APPEAL FROM GARLAND COUNTY CIRCUIT COURT - 26CR 00 366

STATE OF ARKANSAS APPELLEE

APPELLANT'S PRO SE PETITION FOR REHEARING IS DENIED. SPECIAL JUSTICE DON CURDIE AGREES. BRONNI, J., NOT PARTICIPATING.

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, HEREUNTO
SET MY HAND AND AFFIX THE SEAL OF SAID
SUPREME COURT, AT MY OFFICE IN THE CITY OF
LITTLE ROCK, THIS 17TH DAY OF JULY, 2025.



CLERK

ORIGINAL TO CLERK

CC: ERIC BURGIE
MICHAEL ZANGARI, ASSISTANT ATTORNEY GENERAL
HON. RALPH C. OHM, CIRCUIT JUDGE

APPENDIX C

MANDATE

AFFIRMED

PROCEEDINGS OF MAY 29, 2025

SUPREME COURT CASE NO. CR-24-532

ERIC BURGIE

APPELLANT

V. APPEAL FROM GARLAND COUNTY CIRCUIT COURT
(26CR-00-366)

STATE OF ARKANSAS

APPELLEE

THIS POST CONVICTION CRIMINAL APPEAL WAS SUBMITTED TO THE ARKANSAS SUPREME COURT ON THE RECORD OF THE GARLAND COUNTY CIRCUIT COURT AND BRIEFS OF THE RESPECTIVE PARTIES. AFTER DUE CONSIDERATION, IT IS THE DECISION OF THE COURT THAT THE JUDGMENT OF THE CIRCUIT COURT IS AFFIRMED.

SPECIAL JUSTICE DON CURDIE JOINS. BRONNI, J., NOT PARTICIPATING.

IN TESTIMONY, THAT THE ABOVE IS A TRUE AND CORRECT COPY OF THE JUDGMENT OF THE ARKANSAS SUPREME COURT, I, KYLE E. BURTON, CLERK, SET MY HAND AND AFFIX MY OFFICIAL SEAL, ON THIS 17TH DAY OF JULY, 2025.



KYLE E. BURTON, CLERK

APPENDIX C

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