

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON

Assigned on Briefs September 3, 2014

DONALD RAGLAND v. STATE OF TENNESSEE

Appeal from the Criminal Court for Shelby County
No. 06-06182 W. Mark Ward, Judge

No. W2013-02778-CCA-R3-PC - Filed November 10, 2014

The petitioner, Donald Ragland, appeals the trial court's denial of his "Motion to Reconsider Relief from Judgment," asserting that he is entitled to relief based on testimony surrounding the affidavit supporting his arrest. We conclude that the petitioner does not have an appeal as of right from the denial of such motion and dismiss the appeal.

Tenn. R. App. P. 3 Appeal as of Right; Appeal Dismissed

ALAN E. GLENN, J., delivered the opinion of the Court, in which ROBERT W. WEDEMEYER and ROBERT L. HOLLOWAY, JJ., joined.

Donald Ragland, Nashville, Tennessee, Pro Se.

Robert E. Cooper, Jr., Attorney General and Reporter; J. Ross Dyer, Senior Counsel; Amy P. Weirich, District Attorney General; and Muriel Malone, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

FACTS

In 2008, the petitioner was convicted of first degree premeditated murder and sentenced to life in prison. State v. Donald Ragland, No. W2008-02065-CCA-R3-CD, 2009 WL 4825182 (Tenn. Crim. App. Dec. 15, 2009), perm. app. denied (Tenn. May 11, 2010). His conviction was affirmed on appeal, and the Tennessee Supreme Court denied his application for permission to appeal. Id. The underlying facts of the case were recited by this court on direct appeal as follows:

Testimony in this case was heard at a suppression hearing held on

November 16 and December 7, 2007, and at a jury trial held from June 4 through 6, 2008. The crime at issue in this case occurred on December 9, 2005.

The hearing on the [petitioner]'s motion to suppress concerned admission of an inculpatory statement made by the [petitioner] during an interview with Memphis police. Memphis Homicide Detective Eric Hutchison testified at the hearing that he was called to St. Elmo's Market in Memphis at about 4:00 p.m. on December 9, 2005, to investigate the shooting death of the victim, LaAunzae Grady. During the course of his investigation, friends and relatives of the victim informed Det. Hutchison that the [petitioner], the older brother of a man killed by the victim a few years before, had said he intended to kill the victim. He also learned that an eyewitness saw the victim's killer fleeing in a white Jeep Cherokee, the type of vehicle operated by the [petitioner].

This information led Det. Hutchison and his partner, Sergeant Caroline Mason, to look for the [petitioner]. They found the [petitioner] at his girlfriend's house on December 12, 2005, and arrested him on the basis of an outstanding arrest warrant for a traffic offense. A uniformed officer drove the [petitioner] to the Memphis Police Department homicide office and placed him in an interview room.

Detective Hutchison and Sgt. Mason then read the [petitioner] his rights under Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966). The [petitioner] agreed to speak with them and waived his right to a lawyer. He then claimed to have been at work until about 3:00 p.m. on December 9. He began to feel sick at work at that time and left. The [petitioner] soon changed his story, however, and began to detail his involvement in a five or six-person conspiracy to kill the victim, as well as the roles of his supposed coconspirators: two men had lured the victim to St. Elmo's Market, another had told the [petitioner] that the victim was inside, and two more had lured the victim outside to be shot. The [petitioner] implicated himself by noting that he took off the ski mask he wore during the shooting. The [petitioner] did not give a written statement during the December 12 interview.

Detective Hutchison and Sgt. Mason decided to keep the [petitioner] in jail for forty-eight hours on his previous arrest warrant while they investigated his story. Investigation on the evening of December 12 led Det. Hutchison to

believe that the [petitioner] had lied about having co-conspirators, although the persons named by the [petitioner] included people who were present at St. Elmo's Market at the time of the crime. Detective Hutchison and Sgt. Mason brought the [petitioner] back to the homicide interview room on December 13, 2005. The [petitioner] signed a Miranda waiver form, and he proceeded to give an extensive statement in which he admitted his responsibility for killing the victim and detailed the claimed roles of his co-conspirators. He was booked on murder charges. Detective Hutchison later received a call from an eyewitness named Michael Jones who said he had seen the killer flee from St. Elmo's Market while removing his ski mask. Mr. Jones said he could identify the killer. Mr. Jones later did so while viewing a six-person photographic lineup.

On cross-examination, Det. Hutchison noted that the victim was affiliated with a gang called the Vice Lords, while the [petitioner] and his brother were affiliated with the Gangster Disciples. Detective Hutchison also noted that the [petitioner] had been allowed to call his mother and his girlfriend and that he was given food and water during his interviews.

He also discussed the presence of cameras filming for a documentary television series called "The First 48." That series' cameras were allowed to film events in the interview room, although they were not present in the jail or while the victim was being driven to the homicide department. Detective Hutchison recalled that cameras from "The First 48" recorded some of the [petitioner]'s writing on a blackboard inside the interview room on December 13. Detective Hutchison did not recall the [petitioner] having written "I want a lawyer" or "I've been kidnapped" on the blackboard, but did recall that he had written a number of verses from the Bible. Detective Hutchison testified that the [petitioner] never said he wanted a lawyer.

Sergeant Mason also testified at the suppression hearing. She clarified that the [petitioner] originally claimed to have picked up one of his children at Coleman Elementary School after leaving work at 3:00 p.m. on December 9. She otherwise confirmed Det. Hutchison's account of their December 12 interview of the [petitioner]. As to the December 13 interview, Sgt. Mason said that the [petitioner] admitted to sole responsibility for the victim's murder after she told him she thought he was lying about his supposed co-conspirators. The [petitioner] said he had waited in front of St. Elmo's Market for the victim to exit. When the victim did so, the [petitioner] shot him. The [petitioner] then ran through a few nearby yards, coming out about two houses east of the

store. He entered his vehicle and left.

Sergeant Mason affirmed that the [petitioner] had written “I need a lawyer” and “I’ve been kidnapped” on the chalkboard while she and Det. Hutchison were out of the interview room. When she returned to the interview room, Sgt. Mason accordingly asked the [petitioner] whether he wanted a lawyer. He unequivocally said that he did not. She also asked the [petitioner] whether he believed he had been kidnapped, and he responded in the negative. Sergeant Mason and Det. Hutchison then took the [petitioner]’s incriminating statement. Cameras for “The First 48” were not present when the statement was taken. The [petitioner]’s girlfriend contacted Sgt. Mason on December 19 and informed her that the [petitioner] wanted to speak to her again; the [petitioner] arranged another meeting in which he denied the truth of his confession.

During cross-examination, Sgt. Mason noted that the December 13 interview lasted from 12:13 to 8:50 p.m. At 8:50 p.m., the [petitioner] began to give his statement. He concluded at 10:38 p.m. No one besides Sgt. Mason and Det. Hutchison talked to the [petitioner] during this period.

The [petitioner] testified at his suppression hearing. He said that he was at his girlfriend’s house on December 12 when officers arrived. They entered the house and told him he could not leave. Sergeant Mason and Det. Hutchison arrived shortly thereafter and handcuffed him. They did not read him his rights, tell him he was under arrest, or mention the warrant for his arrest. He was transported to the homicide interview room and shackled to the table therein. No one read the [petitioner] his Miranda rights before the interview began.

The [petitioner] asked for a lawyer after being interviewed for about two hours on December 12. Detective Hutchison responded, “What did I need a lawyer for. They said the only thing a lawyer was going to do is get all your money and then you’re in jail.” The [petitioner] said he was not advised of his Miranda rights on December 13 until about noon. He also asked for a lawyer, but received the same response as the day before. The [petitioner] was shown the waiver Sgt. Mason claimed he signed on that day; he said that the form he signed said much less than the one in evidence and that he did not recognize the signature on the form in evidence. The [petitioner] did sign some form, however, after being told that he had to do so in order to return to the jail.

While Sgt. Mason and Det. Hutchison were out of the interview room, the [petitioner] wrote “was [he] arrested or kidnapped and [he] wasn’t guilty until proven innocent and that [he] wanted a lawyer” on the blackboard. He pointed to this written request for a lawyer as Sgt. Mason and Det. Hutchison reentered the room, but they did not respond.

The [petitioner] acknowledged giving a statement on December 13, but said that he did not give the six-page statement in evidence. The statement he signed had been only two pages long, and he said that all of the information in the six-page statement was incorrect. The [petitioner] was only allowed to go to the bathroom once on December 13, before the interview began. He was only given water once and could not recall being given food. The [petitioner] acknowledged speaking to Sgt. Mason a third time on December 19. He again said that the rights waiver Sgt. Mason claimed he signed on that day appeared to have things added to it, although he did recognize it as containing his signature.

On cross-examination, the [petitioner] admitted he had been arrested and questioned many times before, and he had pleaded guilty to felonies in the past. He changed his mind and admitted that the December 13 rights waiver contained his signature. He said he did not initial each page of the six-page statement and had never seen those initials before, although he did sign the sixth page.

The trial court denied the [petitioner]’s motion to suppress in an order dated January 11, 2008.

This case then proceeded to trial, where the State first presented the testimony of Officer James Watts of the Memphis Police Department. While on patrol on December 9, 2005, Officer Watts responded to a call from St. Elmo’s Market. It was still light out when he received the call. Upon arriving at the market, Officer Watts saw a black male lying on the ground in front of the store “taking his last breaths.” His head rested on a concrete parking barrier. He appeared to have been shot in the abdomen and was unable to speak. He was holding his stomach area, and someone had covered him with a jacket. Officer Watts noted a number of shell casings in the immediate area. He did not see a gun. A few other people were in the area, although Officer Watts did not see anyone tending to the victim. Officer Watts called for paramedics, who arrived shortly thereafter, followed by crime scene technicians and homicide det

Memphis resident Corithian McClatcher testified that between 4:00 and 4:30 p.m. on December 9, 2005, he and his cousin's husband, Earnest Prince, drove his girlfriend's Cadillac to St. Elmo's Market. Mr. McClatcher had picked up Mr. Prince about two blocks away. As the two drove into the store's parking lot, Mr. McClatcher noticed a tall, thin male in a black jacket and black ski mask standing in front of the store with his hands in his pockets. Mr. McClatcher said to Mr. Prince, "there goes somebody standing over there with a mask." Mr. McClatcher stayed in the car while Mr. Prince went into the store. He saw Mr. Prince say something to the masked man as he entered. A few minutes later, Mr. Prince exited the store and returned to the vehicle, at which time Mr. McClatcher drove away.

That evening, Mr. Prince told Mr. McClatcher that police wanted to talk to him about a crime that had occurred after they left St. Elmo's Market. Mr. McClatcher met Det. Hutchison and Sgt. Mason on December 10, and he gave a statement. A few days later, the police contacted him again and told him the [petitioner] had stated that McClatcher was involved in the shooting. He denied any involvement.

Mr. Prince confirmed that he visited St. Elmo's Market with Mr. McClatcher. He testified that, as he entered the store, he saw Dewayne Hall, a store employee. Mr. Prince also saw and recognized the victim, whom he had known for his entire life. Mr. Prince told the people in the store about the masked man outside, but they were "nonchalant." The victim seemed nervous, however, and said, "I got my pistol too, mother fucker. You know it. I'm going to pop his ass." Mr. Prince did not see a gun, however. After buying some beer, Mr. Prince left the store and drove away. He returned by himself at about 10:00 p.m. that evening and learned from Sgt. Mason that the victim had been killed. A former Vice Lord, Mr. Prince was taken into custody and held as a suspect. He denied any involvement in the victim's murder and was released on December 12.

Natalie Thomas testified that she drove her pink Dodge Shadow to St. Elmo's Market some time between 4:00 and 4:30 p.m. on December 9. As she pulled into a parking space, she saw a tall, thin male in a ski mask standing by the fence to the right of the store. She then saw a black male exit the store. The man in the ski mask walked toward him, took out a gun, and shot him four or five times. The shooter held the gun with his left hand. Ms. Thomas said the victim did not have a gun. The shooter then ran away. Ms. Thomas called 911. A moment later, a white Cadillac with two men inside pulled up. Ms.

Thomas stayed on the scene until police arrived.

Dewayne Hall testified that he worked at St. Elmo's Market on December 9. Between 4:15 and 4:30 p.m. on that day, Mr. Prince came into the store and said a masked man was standing outside. Mr. Hall looked outside and saw the man standing with his hands in his pockets near the fence on the right side of the store. This was very unusual. The victim was present in the store and also saw the masked man; he did not seem concerned, however.

Mr. Prince left the store. The victim left the store shortly thereafter. Mr. Hall stood near the store's front door as the victim exited; he saw the masked man shoot the victim five or six times. The shooter held the gun in his left hand. Mr. Hall was almost hit; he ran to the back of the store. When he returned to the front of the store, he saw the victim lying on the ground outside. The shooter was gone. Mr. Hall gave a statement to police at about 2:00 a.m. on December 10.

Michael Jones testified that he went to St. Elmo's Market on December 9 to buy beer for his mother-in-law. He bought the beer and left and noted that he saw the victim in the store. After walking back to his mother-in-law's house about two blocks away, Mr. Jones realized he forgot to buy "blunts." He and a friend then drove Mr. Jones' white Cadillac back to the store. On the way, they saw a man walking toward them with a "zoned-out look on his face." The man looked like he was carrying something in his pockets. Mr. Jones joked with his friend that the man had a look on his face like "he did something."

Mr. Jones arrived back at St. Elmo's Market about ten minutes after he had left. As he pulled into the parking lot, he saw the victim lying on the ground in front of the store. The victim's eyes were rolled back into his head, and he was trying to breathe. The victim did not say anything. Mr. Jones prayed with the victim. He did not see a gun in the victim's possession or around the victim.

Police and paramedics arrived about seven or eight minutes later. Mr. Jones remained on the scene for about thirty minutes before leaving. He did not think to give his contact information to police or tell police about the man he saw walking away from the store. Detective Hutchison and Sgt. Mason, having received his contact information from another witness, called him and

asked him to look at a photographic lineup. Mr. Jones did so on December 12 after signing an “Advice to Witness Viewing Photographic Display” form. Mr. Jones identified the [petitioner] as the man he had seen walking away from St. Elmo’s Market; he noted that he was not “100% sure,” however. He had never seen the [petitioner] before.

Sergeant Mason also testified at trial. She arrived at St. Elmo’s Market after the shooting and learned that the victim had died after being transported to Regional Medical Center. She originally suspected Mr. Prince; she and Det. Hutchison eliminated him as a suspect after questioning him, however. Sergeant Mason then largely reiterated her testimony at the suppression hearing regarding her and Det. Hutchison’s interactions with the [petitioner]. She added that the [petitioner] originally claimed in the December 12 interview to have been working at a temporary agency on December 9 until he drove to pick up his child at 3:00 p.m. He could not remember the name of the agency, however, and later admitted he was not at an agency.

Sergeant Mason introduced relevant documents from the [petitioner]’s December 13 interview. The [petitioner]’s waiver of rights form was presented to him at 11:48 a.m. on that day. It contains his signature and was witnessed by Sgt. Mason and Det. Hutchison at 12:13 p.m. The [petitioner]’s “Homicide Defendant Statement” indicates that it began at 8:50 p.m. that evening. The statement contains typed questions asked by Det. Hutchison and Sgt. Mason, as well as the [petitioner]’s answers. Sergeant Mason clarified that she typed the [petitioner]’s answers as he gave them.

The statement form begins with a Miranda warning and continues as follows:

Q: Do you understand each of these rights I have explained to you?

A: Yes. [The petitioner’s initials]

Q: Do you wish to make a statement now?

A: Yes. [The petitioner’s initials]

The first through fifth pages bear the [petitioner]’s initials on the bottom right corner of each page. The sixth page contains the [petitioner]’s signature and notes a time of 10:38 p.m. on December 13. The statement

contains the [petitioner]'s admission that he shot the victim at St. Elmo's Market, although he claimed to have been assisted by Mr. Prince, Mr. Hall, a man nicknamed "Peanut," a man nicknamed "J Black," Tremaine Logan, "another guy with a star up under his eye, and a brown skinned guy with a low haircut that drove a brown Buick." The [petitioner] said "J Black" gave him \$1,700 and some cocaine, ecstasy and marijuana to kill the victim. Mr. Logan lured the victim to the store, while Mr. Prince and "Peanut" provided the [petitioner] with the ski mask and murder weapon. Mr. Hall supposedly acted as a lookout in the store, while the "guy with a star up under his eye" waited down the street to help the [petitioner] dispose of the evidence.

Mr. Prince and the "brown skinned guy" in the Buick drove up beside the [petitioner] before the shooting and confirmed that he was ready. The [petitioner] said Mr. Prince then proceeded to St. Elmo's Market, where he helped lure the victim out of the store. The [petitioner] then shot the victim. He said that he was supposed to be driven away from the scene after handing over the evidence, but that the "guy with the star up under his eye" drove away without him after receiving the murder weapon. The [petitioner] then panicked and ran to his truck. He confirmed that he removed his ski mask as he reached the street after running through a few nearby yards.

The [petitioner] said he was a member of the Gangster Disciples, but that the victim and the [petitioner]'s co-conspirators were all Vice Lords. He believed the victim had been targeted by the other Vice Lords "due to unloyalty and lack of trust." The [petitioner] said the victim's role in his brother's 1999 murder contributed to his decision to kill the victim. The [petitioner] also said, however, that he and his family had been threatened if he chose not to cooperate, that he was under the influence of cocaine and ecstasy during the shooting, and that, although he thought he would feel better by avenging his brother's death, he "[felt] worse than [he] did before [he] shot [the victim]."

After recounting the [petitioner]'s statement, Sergeant Mason again affirmed that further investigation revealed as fictitious the [petitioner]'s claim to have worked with coconspirators. She also discussed her final conversation with the [petitioner], on December 19, in which he wanted to withdraw his statement.

Special Agent Cervinia Braswell of the Tennessee Bureau of Investigation testified after being certified as an expert in firearms

identification and examination. The Memphis Police Department's crime scene unit sent her seven shell casings, a bullet jacket, and a bullet core from the St. Elmo's Market crime scene. She also received a nine millimeter jacketed hollow-point bullet and a nine millimeter total metal jacketed bullet that had been removed from the victim's body. Her examination determined that all of the recovered shell casings were fired from the same nine millimeter firearm. She also concluded with certainty that the bullet jacket found at the store was fired from the same firearm as one of the bullets recovered from the victim's body; the second bullet in the victim's body could have been fired from the same firearm as the other two, but the bullet was too damaged for her to be certain.

Doctor Kenneth Snell performed an autopsy on the victim. He testified that the victim suffered two gunshot wounds to the left side of his mid-back, one to the upper left buttock, and one that entered the back of his right thumb, exited that thumb, and entered his forearm. None of the entrance wounds evidenced any gunpowder stippling, meaning that the bullets were not fired from extremely close range. Doctor Snell introduced a diagram of the wounds and a number of photos of the victim's body. The bullets damaged the victim's liver, third lumbar vertebrae, aorta, adrenal gland, and pancreas, and caused his death.

The [petitioner] chose not to testify, but presented the testimony of his girlfriend, LaTonya Tuggle-Bennett. She testified that, on December 9, she and the [petitioner] were driving together after they left work at about 3:00 p.m. They were pulled over by a Shelby County Sheriff's deputy and cited for a vehicle license plate violation. They arrived home at about 4:00 p.m., where they both stayed with their first child until 9:00 p.m. Ms. Tuggle-Bennett then went to Wal-Mart. The [petitioner] was still at home when she returned. On cross-examination, Ms. Tuggle-Bennett admitted she had not mentioned this alibi until the weekend before trial; she said she had assumed the [petitioner] and his lawyer were taking care of the matter and did not need her help.

Id. at *1-7.

On February 25, 2011, the petitioner filed a petition for post-conviction relief, which was denied after a hearing. Donald Ragland v. State, No. W2012-00743-CCA-R3-PC, 2013 WL 967769 (Tenn. Crim. App. Mar. 8, 2013), perm. app. denied (Tenn. July 12, 2013). This court affirmed the denial of the petition for post-conviction relief on March 8, 2013. Id.

Thereafter, the petitioner evidently filed a “Motion to Reconsider Relief from Judgment” on October 10, 2013, which the trial court denied by order entered October 11, 2013. The court specifically said that the petitioner’s “motion to reconsider relief from judgment filed 10-10-13 is denied. Said motion is not available to attack a criminal conviction. Also see order by this court dated 9-18-13 denying similar motion.”¹ It is from this denial that the petitioner now appeals.

ANALYSIS

As an initial matter, we note that, in his brief, the petitioner asserts that his appeal is of right from the denial of a motion to reconsider relief from judgment. However, the record does not contain any such document. Interestingly, there is a petition for habeas corpus relief in the record, but the date on it does not correspond to the date asserted by the petitioner for the motion to reconsider relief from judgment. Considering that the record also contains the trial court’s denial of the petitioner’s motion to reconsider relief from judgment, we presume that such motion exists separately from the habeas corpus motion and was somehow omitted from the record.

Turning now to the issue at hand, we conclude that the petitioner does not have an appeal as of right from the denial of a motion to reconsider relief from judgment. Under Tennessee Rule of Appellate Procedure 3(b), a criminal defendant has an appeal as of right in the following circumstances:

In criminal actions an appeal as of right by a defendant lies from any judgment of conviction entered by a trial court from which an appeal lies to the Supreme Court or Court of Criminal Appeals: (1) on a plea of not guilty; and (2) on a plea of guilty or nolo contendere, if the defendant entered into a plea agreement but explicitly reserved the right to appeal a certified question of law dispositive of the case pursuant to and in compliance with the requirements of Rule 37(b)(2)(A) or (D) of the Tennessee Rules of Criminal Procedure, or if the defendant seeks review of the sentence and there was no plea agreement concerning the sentence, or if the issues presented for review were not waived as a matter of law by the plea of guilty or nolo contendere and if such issues are apparent from the record of the proceedings already had. The defendant may also appeal as of right from an order denying or revoking probation, an order or judgment pursuant to Rule 36 or Rule 36.1, Tennessee Rules of Criminal Procedure, from a final judgment in a criminal contempt, habeas corpus, extradition, or post-conviction proceeding, and from a final order on

¹ We note that no order dated “9-18-13” is in the record.

a request for expunction.

Therefore, this court does not have jurisdiction to consider this matter, and we dismiss the appeal.

Even if we were to determine that, despite the language in the petitioner's brief and the order of the trial court, the petitioner was actually appealing the denial of a petition for writ of habeas corpus, the petitioner has failed to establish that he is entitled to relief because his claim has been previously reviewed by this court and his claim, if true, would only render his conviction voidable not void. In his brief, the petitioner challenges the testimony surrounding the affidavit supporting his arrest, asserting that the testimony establishing probable cause included false and misleading information. However, this court has previously reviewed the probable cause to arrest the petitioner for the murder and concluded:

The [petitioner] also contends that the trial court erred in denying his motion to suppress because the police lacked probable cause to arrest him for the victim's murder. He concedes that the police properly arrested him on an outstanding arrest warrant for a previous traffic offense, but argues that this warrant was insufficient to allow the police to hold him for questioning on the instant murder charge.

We need not address this contention, however, because we agree with the trial court's holding that the police had probable cause to hold the [petitioner] as a suspect in the victim's murder. The trial court found that the police knew, when they arrested the [petitioner], that: (1) the [petitioner] had vowed to kill the victim; (2) he operated a white Jeep Cherokee, a type of car seen in the area at the time of the murder; and (3) the [petitioner] and the victim's killer were both left-handed.

"Probable cause requires only the existence of such facts and circumstances sufficient to excite in a reasonable mind the belief that the accused is guilty of the crime charged." Roberts v. Federal Express Corp., 842 S.W.2d 246, 248 (Tenn. 1992). After a review of the record, we conclude that the evidence does not preponderate against the findings of fact underlying the trial court's conclusion that the police had probable cause to believe the [petitioner] had killed the victim. We also conclude that the trial court properly held that those facts met the standard for probable cause. This issue is without merit.

Donald Ragland, 2009 WL 4825182, at *8.

Moreover, the petitioner's claim, if true, would render his conviction voidable, not void. See Edward Johnson v. Mark Luttrell, Sheriff and State of Tennessee, No. W2006-01409-CCA-R3-HC, 2007 WL 700951, at *1 (Tenn. Crim. App. Mar. 6, 2007) (holding that the petitioner's attacks on the initial warrant leading to his arrest and subsequent probable cause determination would not result in the grant of habeas corpus relief); see also State v. Marvin Kale Ferguson, No. 03-C-01-9406-CR-00234, 1995 WL 412430, at *1 (Tenn. Crim. App. July 12, 1995) (stating that "the mere fact an accused's arrest was unconstitutional, invalid, or illegal, standing alone, will not afford the accused relief from his conviction"). Therefore, even if the petitioner's appeal is from a denial of a petition for writ of habeas corpus, he is not entitled to relief.

CONCLUSION

Based on the foregoing authorities and reasoning, we conclude that this court is without jurisdiction to review this matter and dismiss the appeal.

ALAN E. GLENN, JUDGE