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ATTORNEY FOR APPELLANT:

SAMMIE L. BOOKER-EL
Michigan City, Indiana



**IN THE
COURT OF APPEALS OF INDIANA**

SAMMIE L. BOOKER-EL,)
)
Appellant-Defendant,)
)
vs.) No. 48A02-1312-CR-1012
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

APPEAL FROM THE MADISON CIRCUIT COURT
The Honorable Angela Warner Sims, Judge
Cause No. 48C01-0112-CF-398

August 22, 2014

MEMORANDUM DECISION - NOT FOR PUBLICATION

VAIDIK, Chief Judge

Case Summary

In his most recent appeal, Sammie L. Booker-El contends that the trial court did not have jurisdiction to hear the child-molesting charges against him in 2001. But because Booker-El's motion is an unauthorized successive petition for post-conviction relief, we dismiss his appeal.

Facts and Procedural History

In December 2001 the State charged Booker-El with three counts of child molesting for molesting two girls—ages six and seven—he was babysitting and infecting them with gonorrhea. In 2002 a jury convicted him of all three counts, and the trial court sentenced him to forty years. We affirmed his convictions and sentence on direct appeal. *Booker v. State*, 790 N.E.2d 491 (Ind. Ct. App. 2003), *trans. denied*.

In 2003 Booker-El filed a pro se petition for post-conviction relief, which he later amended, raising numerous issues, including ineffective assistance of both trial and appellate counsel. The post-conviction court entered findings of fact, conclusions of law, and an order denying Booker-El's petition. We affirmed on appeal. *Booker v. State*, No. 48A05-0609-PC-534 (Ind. Ct. App. Apr. 16, 2008).

Booker-El later filed a Trial Rule 60(B) motion for relief from judgment, which the trial court denied in 2013. Booker-El followed up with a motion to correct error, which the trial court also denied. Booker-El appealed. On appeal, we reiterated the principle that issues available but not raised on direct appeal are waived, while issues litigated adversely to the defendant are res judicata. *Booker-El v. State*, 48A02-1304-CR-366 (Ind. Ct. App. Apr. 28, 2014), *trans. denied*. We explained that from what we could discern, many of

Booker-El's claims were raised in his petition for post-conviction relief and his appeal from the denial of that petition. *Id.* In addition, we noted that his remaining claims were available to him on direct appeal or post-conviction. *Id.* We therefore affirmed the trial court. *Id.*

In November 2013 Booker-El, pro se, filed a Motion to Dismiss or Nullification of Abstract of Judgment Due to Lack of Jurisdiction. Appellant's App. p. 1. From what we can discern, Booker-El alleges in this motion that when the State first filed the child-molesting charges against him in December 2001, the State filed the charges in Madison Superior Court, but he was tried in Madison Circuit Court; therefore, Madison Circuit Court lacked jurisdiction over him. *Id.* The trial court promptly denied his motion.

Booker-El now appeals.

Discussion and Decision

Booker-El contends that Madison Circuit Court did not have jurisdiction to hear the child-molesting charges against him in 2001 because the charging information was originally filed in Madison Superior Court.¹ However, Booker-El has already litigated one petition for post-conviction relief, and he did not receive, or even request, authorization to file a successive petition. Because Booker-El has already litigated one petition for post-conviction relief in relation to this case, he must follow the procedure outlined in Post-Conviction Rule 1(12) for filing successive petitions. *See Young v. State*, 888 N.E.2d 1255,

¹ As support for his claim that this case was originally assigned to Madison Superior Court, Booker-El cites the charging information. *See* Appellant's App. p. 21. The State filed the child-molesting charges against Booker-El on December 27, 2001. *Id.* The cause number assigned to Booker-El's case was 48C01-0112-CF-398. This shows that this case was assigned to Madison Circuit Court 1, not to a superior court.

1257 (Ind. 2008). Because Booker-El's motion is an unauthorized successive petition for post-conviction relief, we dismiss this appeal.

Dismissed.

FRIEDLANDER, J., and MAY, J., concur.