

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

DECEMBER 1996 SESSION

FILED
Feb. 14, 1997
Cecil Crowson, Jr.
Appellate Court Clerk

HENRY MARTIN,)
)
 Appellant,)
)
 v.)
)
 BILLY COMPTON, WARDEN,)
)
 Appellee.)

No. 02C01-9601-CC-00034

Lake County

Hon. Joe G. Riley, Jr., Judge

(Habeas Corpus)

For the Appellant:

Henry Martin, Pro Se
L.C.R.C.F.
Route 1, Box 330
Tiptonville, TN 38079

For the Appellee:

Charles W. Burson
Attorney General of Tennessee
and
Robin L. Harris
Assistant Attorney General of Tennessee
450 James Robertson Parkway
Nashville, TN 37243-0493

C. Phillip Bivens
District Attorney General
P.O. Drawer E
Dyersburg, TN 38024

OPINION FILED: _____

AFFIRMED

Joseph M. Tipton
Judge

OPINION

The petitioner, Henry Martin, appeals as of right from the dismissal of his petition for habeas corpus relief by the Lake County Circuit Court for failure to state a cause of action over which the trial court had jurisdiction. The petitioner is presently in the custody of the Department of Correction. His petition alleges that he is being unduly restrained of his liberty because the Department of Correction is refusing to compute his parole dates and earned sentencing credits. The trial court dismissed the petition because the allegations do not show that the petitioner's sentence is void or has fully expired. We agree.

Although the record is exceedingly sparse, we glean that the petitioner is currently serving sentences in the Department of Correction for convictions he received in Sumner and Robertson Counties. He alleges that he also has Davidson County convictions for which he was originally placed on probation, but the state has pending a revocation warrant that relates to a failed drug test some twenty-five months earlier. According to the petitioner, the result is that the Department of Correction is refusing to calculate sentencing credits and parole dates because of the pending revocation action for the Davidson County convictions. The petitioner claims both that he is entitled to release if the Department of Correction would process his sentencing credits and that the twenty-five-month delay in pursuing his Davidson County probation revocation violates his right to a speedy trial.

Even though what has occurred to the petitioner is unclear from the record, it remains clear that he is not entitled to habeas corpus relief. Habeas corpus relief is only available in Tennessee when a convicted petitioner's sentence is void or the sentence has expired. See Archer v. State, 851 S.W.2d 157, 164 (Tenn. 1993). It is not available to challenge the denial of prison privileges and related internal matters

of our correctional institutions that have no bearing on the validity of the restraining conviction, the resulting sentence, or the expiration of the sentence. See, e.g., State v. Warren, 740 S.W.2d 427, 428 (Tenn. Crim. App. 1986). The appropriate method to challenge the Department of Correction's failure to calculate sentencing credits and parole dates is the Administrative Procedures Act. See T.C.A. §§ 4-5-101--325 (1991 and Supp. 1996); Brigham v. Lack, 755 S.W.2d 469, 471 (Tenn. Crim. App. 1988).

In this case, the petitioner's complaints concern actions that affect his release eligibility, such as parole, but have no bearing upon the validity of his convictions nor involve a claim that the sentences imposed have actually expired. Similarly, the petitioner's concern of the lack of a speedy proceeding upon the revocation of probation for his Davidson County convictions does not attack the validity of any of his convictions nor relate to the expiration of any sentence actually imposed for which the petitioner is presently incarcerated.

Therefore, we agree with the trial court that the petition for habeas corpus relief fails to state a claim for which either a writ should issue or relief be granted. We affirm the judgment of the trial court.

Joseph M. Tipton, Judge

CONCUR:

Joe B. Jones, Presiding Judge

Jerry L. Smith, Judge