IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON
Assigned on Briefs October 21, 2014 at Knoxville

RONALD SHIPLEY v. JERRY LESTER, WARDEN

Appeal from the Circuit Court for Lauderdale County
No. 6729 Joseph Walker, Judge

No. W2014-00354-CCA-R3-HC - Filed November 20, 2014

The petitioner, Ronald Shipley, appeals the summary dismissal of his petition for writ of habeas corpus, claiming that illegality in his sentence for his conviction of rape of a child renders the judgment void. Discerning no error, we affirm the dismissal of the petition.

Tenn. R. App. P. 3; Judgment of the Circuit Court Affirmed

JAMES CURWOOD WITT, JR., J., delivered the opinion of the Court, in which D. KELLY THOMAS, JR., and ROBERT L. HOLLOWAY, JR., JJ., joined.

Ronald Shipley, Henning, Tennessee, pro se.

Robert E. Cooper, Jr., Attorney General and Reporter; and Benjamin A. Ball, Assistant Attorney General, for the appellee, State of Tennessee.

OPINION

In 1995, a Shelby County Criminal Court jury convicted the petitioner of a single count of rape of a child for raping his three-year-old niece, and this court affirmed his conviction and sentence on direct appeal, *see State v. Ronald Shipley*, No. 02C01-9601-CR-00031 (Tenn. Crim. App., Jackson, Jan. 22, 1997), *perm. to app. denied* (Tenn. 1997), and the subsequent denial of his petition for post-conviction relief, *see Ronald Shipley v. State*, No. W2000-00434-CCA-R3-PC (Tenn. Crim. App., Jackson, July 13, 2001). On February 7, 2014, the petitioner filed a petition for writ of habeas corpus, claiming that the judgment evinced both a 30 percent and a 100 percent release eligibility percentage, thus rendering his sentence illegal.

The habeas corpus court summarily dismissed the petition, noting that the judgment form did not impose an illegal sentence. The court explained that although both

the standard offender and the child rapist boxes were marked on the judgment form, the form clearly requires 100 percent service of his sentence and does not contravene any statute.

"The determination of whether habeas corpus relief should be granted is a question of law." *Faulkner v. State*, 226 S.W.3d 358, 361 (Tenn. 2007) (citing *Hart v. State*, 21 S.W.3d 901, 903 (Tenn. 2000)). Our review of the habeas corpus court's decision is, therefore, "de novo with no presumption of correctness afforded to the [habeas corpus] court." *Id.* (citing *Killingsworth v. Ted Russell Ford, Inc.*, 205 S.W.3d 406, 408 (Tenn. 2006)).

The writ of habeas corpus is constitutionally guaranteed, *see* U.S. Const. art. 1, § 9, cl. 2; Tenn. Const. art. I, § 15, but has been regulated by statute for more than a century, *see Ussery v. Avery*, 432 S.W.2d 656, 657 (Tenn. 1968). Tennessee Code Annotated section 29-21-101 provides that "[a]ny person imprisoned or restrained of liberty, under any pretense whatsoever, except in cases specified in § 29-21-102, may prosecute a writ of habeas corpus, to inquire into the cause of such imprisonment and restraint." T.C.A. § 29-21-101 (2006). Despite the broad wording of the statute, a writ of habeas corpus may be granted only when the petitioner has established a lack of jurisdiction for the order of confinement or that he is otherwise entitled to immediate release because of the expiration of his sentence. *See Ussery*, 432 S.W.2d at 658; *State v. Galloway*, 45 Tenn. (5 Cold.) 326 (1868). The purpose of the state habeas corpus petition is to contest a void, not merely a voidable, judgment. *State ex rel. Newsom v. Henderson*, 424 S.W.2d 186, 189 (Tenn. 1968). A void conviction is one which strikes at the jurisdictional integrity of the trial court. *Archer v. State*, 851 S.W.2d 157, 164 (Tenn. 1993); *see State ex rel. Anglin v. Mitchell*, 575 S.W.2d 284, 287 (Tenn. 1979); *Passarella v. State*, 891 S.W.2d 619, 627 (Tenn. Crim. App. 1994).

In addition to the various procedural requirements for the prosecution of a petition for writ of habeas corpus contained in the Code, *see generally* T.C.A. §§ 29-21-105 to -112, our supreme court has held that "[t]he petitioner bears the burden of providing an adequate record for summary review of the habeas corpus petition." *Summers v. State*, 212 S.W.3d 251, 261 (Tenn. 2007). "[A]n adequate record for summary review must include pertinent documents to support those factual assertions" contained in the petition. *Id.* When a petitioner fails to attach to his petition sufficient documentation supporting his claims, the habeas corpus court may summarily dismiss the petition. *Id.*

In this case, the petitioner appended to his petition a copy of his judgment form, which copy evinces an "x" in the box next to the standard offender designation and a

check mark in the box next to the child rapist designation.[1] We agree with the habeas corpus court that the petitioner misunderstands the nature of the designations in that, at the time of his conviction, the petitioner's offender classification was standard offender, meaning that he was entitled to a Range I sentence, and, because he met the statutory definition of child rapist, his release eligibility percentage was 100 percent. *See Cantrell v. Easterling*, 346 S.W.3d 445, 459 n.15 (Tenn. 2011) (emphasizing that "it is not the designation of [Cantrell's] offender classification that is the problem in this case, because 'Multiple Range 2' indicates the appropriate sentencing range for [Cantrell's] convictions"). The trial court apparently attempted to convey both of these facts by marking the two boxes at issue, and, in our view, the marks do not render the petitioner's sentence void. Moreover, because the petitioner "was tried in a court of competent jurisdiction and convicted by a jury," "[t]he only remedy to which [the petitioner would be] entitled" had we declared the sentence illegal is a remand for the entry of an amended judgment. *Id.* at 458. As stated above, however, we see no need to do so.

Accordingly, we affirm the summary dismissal of the petition.

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JAMES CURWOOD WITT, JR., JUDGE

[1] As noted by the State, the "x" in the standard offender box is the only mark of that kind on the copy of the judgment appended by the petitioner. All other designations were indicated by the use of a check mark.