

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT NASHVILLE

AUGUST, 1997 SESSION

**FILED**

September 19, 1997

**Cecil W. Crowson**  
Appellate Court Clerk

**ROBERT L. FERRELL,** )  
 )  
Appellant, )  
 )  
vs. )  
 )  
**STATE OF TENNESSEE,** )  
 )  
Appellee. )

No. 01CO1-9610-CR-00454

Davidson County

Honorable Thomas H. Shriver, Judge

(Habeas Corpus)

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OPINION FILED: \_\_\_\_\_

**AFFIRMED**

CURWOOD WITT  
JUDGE

OPINION

The petitioner, Robert L. Ferrell, appeals from the trial court's dismissal of his habeas corpus petition. Ferrell filed a petition for writ of habeas corpus in the Davidson County Criminal Court alleging that his convictions were void because the State of Tennessee through its agent, the Board of Paroles, violated his plea bargain agreement. The trial court dismissed the petition without a hearing, finding that the petition had been filed in the wrong court and that the allegations contained in the petition, if true, would not entitle the petitioner to habeas corpus relief. We affirm.

Although the record is sparse, it appears that, in 1986, the petitioner pleaded guilty and was sentenced to serve consecutively a life sentence for first degree murder and twenty-five years at 30% for armed robbery. The gist of the petitioner's complaint is that he was unable to begin serving the life sentence because the Board of Paroles failed to consider him for parole for his armed robbery conviction after he had served the requisite 30%. This failure, the petitioner contends, violates the terms of his agreement with the State of Tennessee and renders that agreement and his convictions void.

In Tennessee, habeas corpus relief is strictly limited both in scope and in the relief available. A trial court may issue a writ of habeas corpus only when it appears upon the face of the judgment or the record of the proceedings that the convicting court was without jurisdiction or authority to sentence the defendant or that the sentence or other restraint has expired. Archer v. State, 851 S.W.2d 157, 164 (Tenn.1993). The only relief a state court can grant in a habeas proceeding is immediate release from confinement. State v. Warren, 740 S.W.2d 427, 428 (Tenn. Crim. App. 1986).

The petitioner has not demonstrated either that the judgments in this instance are void on their face or that his sentences have expired. He alleges only that the Board of Paroles refused to place him on parole after he had served the minimum required time. The granting or denial of parole is discretionary with and vested exclusively in the Board of Paroles. Doyle v. Hampton, 207 Tenn. 399, 403, 340 S.W.2d 891, 893 (1960). A prisoner has no absolute right to be released on parole and courts have no jurisdiction over the actions of the board. State ex rel. Wade v. Norvell, 443 S.W.2d 839, 841 (Tenn. Crim. App. 1969). The writ is not available to challenge the internal decisions of correctional institutions or the Board of Paroles that have no bearing on the validity of his convictions. State v. Warren, 740 S.W.2d at 428.

The Board of Paroles has the authority to administer and to interpret the applicable law concerning sentence calculations. Norton v. Everhart, 895 S.W.2d 317, 321 (Tenn.1995). The sole remedy available when a prisoner alleges that the Board of Paroles has acted improperly is to file a writ of certiorari in the Chancery Court of Davidson County. Brigham v. Lack, 755 S.W.2d 469, 471 (Tenn. Crim. App. 1988). If the petitioner claims that the Tennessee Department of Correction has incorrectly calculated his sentences or incorrectly interpreted the action of the Board of Paroles, the appropriate remedy is found under the Uniform Administrative Procedures Act. Tenn. Code Ann. § 4-5-101 et seq. (1991).

A petition for a writ of habeas corpus is not the appropriate remedy for the petitioner's complaint. The trial court did not err in dismissing the petition without an evidentiary hearing.

Moreover, Tennessee Code Annotated section 29-2-105 requires a petitioner to file his petition with the court or judge nearest him or to give a sufficient reason for not applying to that court or judge. This statute determines the appropriate forum in habeas corpus proceedings. Leonard v. Criminal Court of Davidson Cty., 804 S.W.2d 891, 893 (Tenn. Crim. App. 1990). The petition, in this instance, was filed in Davidson County. The petitioner is incarcerated in Wayne County. The petition was subject to summary dismissal for failure to comply with the procedural requirements of the habeas corpus statutes. See Archer v. State, 851 S.W.2d at 165.

We affirm the trial court's dismissal of the petitioner's application for writ of habeas corpus.

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CURWOOD WITT, Judge

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JOE G. RILEY, Judge

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JOSEPH H. WALKER, III, Special Judge