

CONNECTICUT APPELLATE COURT

Alston v. Commissioner of Correction

AC 47604 (Conn. App. Dec. 9, 2025) · No. AC 47604 · Decided December 9, 2025

SUMMARY

The Connecticut Appellate Court dismissed Ira Alston’s appeal from the dismissal of his second habeas petition. The court held that the second habeas court properly dismissed a claim seeking review of a prior habeas court’s denial of appellate counsel because that claim was beyond the second court’s authority and should have been raised by a motion for review. The court also concluded that the habeas court did not abuse its discretion in denying certification to appeal.

CASE DETAILS

COURT	Connecticut Appellate Court
WRITING FOR THE COURT	Seeley, J.; Clark, J.; Eveleigh, J.
JURISDICTION	Connecticut Appellate Court
DECIDED	December 9, 2025
DOCKET	AC 47604
DISPOSITION	dismissed
PROCEDURAL POSTURE	The petitioner appealed from the judgment of the habeas court dismissing his second amended petition for a writ of habeas corpus and from the denial of certification to appeal.
STANDARD OF REVIEW	The court reviews the denial of habeas certification under the two-pronged Simms test for abuse of discretion and merits; whether dismissal under Practice Book § 23-29 (2) was proper for failure to state a claim is reviewed de novo or plenary.
PRECEDENTIAL VALUE	Published Connecticut Appellate Court opinion
PARTIES	Ira Alston v. Commissioner of Correction

TOPICS

- federal habeas corpus
- state post-conviction relief
- appellate procedure
- motions to dismiss
- preservation of error

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the habeas court abused its discretion by denying Alston's petition for certification to appeal.
2. Whether the second habeas court properly dismissed count five under Practice Book § 23-29 (2) for failure to state a claim for habeas relief.
3. Whether a subsequent habeas petition may be used to obtain review of a prior habeas court's decision denying appointment of appellate counsel.

HOLDINGS

1. The habeas court did not abuse its discretion in denying certification to appeal because the underlying claim was not debatable among jurists of reason, could not reasonably be resolved differently, and did not warrant further proceedings.
2. Count five failed to state a claim upon which habeas corpus relief could be granted because it asked the second habeas court to review the validity and legal soundness of a prior habeas court's decision.
3. A habeas petitioner seeking to challenge a prior habeas court's order denying appointment of appellate counsel must proceed by motion for review under Practice Book §§ 63-7 and 66-6, not by a subsequent habeas petition.

KEY QUOTATIONS

“Because of the limitations to which it is subjected, habeas corpus cannot be utilized as a substitute for an appeal of the original action, or for a writ of error, or for a petition for a new trial.” (at 16)

“We are aware of no case law permitting a subsequent habeas petition to be used as a means to challenge the substantive decision of a prior habeas court” (at 17)

“The petitioner cannot, however, seek redress by way of a habeas petition regarding an order concerning the appointment of appellate counsel in lieu of a motion for review.” (at 22)

FACTUAL BACKGROUND

Alston pleaded guilty in 2010 to possessing a weapon or dangerous instrument in a correctional institution and received a one-year consecutive sentence. His first habeas action was denied in 2017 after appointed counsel withdrew under Anders, and the first habeas court allegedly denied his request for appellate counsel. In a second habeas action, Alston sought relief based on that alleged denial and requested permission to pursue a late appeal with appointed counsel. The second habeas court dismissed the claim because it sought review of the substantive ruling of another habeas court and because Practice Book § 63-7 makes a motion for review the proper remedy.

PROCEDURAL HISTORY

Alston's first habeas petition was denied in 2017, and the first habeas court denied his request for appointment of appellate counsel and his petition for certification to appeal. He later filed a second habeas petition alleging, among other things, that the first habeas court improperly denied appellate counsel. The second habeas court

dismissed all counts under Practice Book § 23-29, denied certification to appeal, and the Connecticut Appellate Court dismissed the appeal.

DISPOSITION

dismissed

CASES CITED

- State v. Alston, 141 Conn. App. 719, 62 A.3d 586 (2013), cert. denied, 308 Conn. 943, 66 A.3d 884 (2013)
- State v. Alston, 308 Conn. 943, 66 A.3d 884 (2013)
- Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967)
- State v. Francis, 322 Conn. 247, 250 n.3, 140 A.3d 927 (2016)
- State v. Pascucci, 161 Conn. 382, 387, 288 A.2d 408 (1971)
- State v. Mendez, 185 Conn. App. 476, 478 n.1, 197 A.3d 477 (2018)
- Oliphant v. Commissioner of Correction, 146 Conn. App. 499, 522, 79 A.3d 77, cert. denied, 310 Conn. 963, 83 A.3d 346 (2013)
- Simms v. Warden, 229 Conn. 178, 640 A.2d 601 (1994)
- Simms v. Warden, 230 Conn. 608, 612, 646 A.2d 126 (1994)
- Vazquez v. Commissioner of Correction, 232 Conn. App. 244, 259-61, 335 A.3d 487, cert. denied, 352 Conn. 958, 336 A.3d 1249 (2025)
- Stephenson v. Commissioner of Correction, 203 Conn. App. 314, 322-23, 248 A.3d 34, cert. denied, 336 Conn. 944, 249 A.3d 737 (2021)
- State v. Nguyen, 52 Conn. App. 85, 90, 726 A.2d 119 (1999), aff'd, 253 Conn. 639, 756 A.2d 833 (2000)
- Balbuena v. Commissioner of Correction, 231 Conn. App. 289, 305, 332 A.3d 1008, cert. denied, 352 Conn. 905, 335 A.3d 845 (2025)
- Hodge v. Commissioner of Correction, 216 Conn. App. 616, 620, 285 A.3d 1194 (2022)
- Boria v. Commissioner of Correction, 345 Conn. 39, 42-43, 282 A.3d 433 (2022)
- Brown v. Commissioner of Correction, 345 Conn. 1, 17, 282 A.3d 959 (2022)
- Kaddah v. Commissioner of Correction, 299 Conn. 129, 136-40, 7 A.3d 911 (2010)
- Kaddah v. Commissioner of Correction, 324 Conn. 548, 559, 561, 153 A.3d 1233 (2017)
- Macri v. Hayes, 189 Conn. 566, 568, 456 A.2d 1186 (1983)
- Lewis v. Commissioner of Correction, 116 Conn. App. 400, 409-12, 975 A.2d 740, cert. denied, 294 Conn. 908, 982 A.2d 1082 (2009)
- Grant v. Commissioner of Correction, 121 Conn. App. 295, 299-302, 995 A.2d 641, cert. denied, 297 Conn. 920, 996 A.2d 1192 (2010)
- Finney v. Commissioner of Correction, 207 Conn. App. 133, 142, 261 A.3d 778, cert. denied, 339 Conn. 915, 262 A.3d 134 (2021)
- Khan v. Commissioner of Correction, 234 Conn. App. 851, 858-59, 344 A.3d 1234 (2025)

- *Petaway v. Commissioner of Correction*, 160 Conn. App. 727, 731, 125 A.3d 1053, cert. dismissed, 324 Conn. 912, 153 A.3d 1288 (2015)
- *Coleman v. Commissioner of Correction*, 137 Conn. App. 51, 59, 46 A.3d 1050 (2012)
- *Lozada v. Warden*, 223 Conn. 834, 838-39, 613 A.2d 818 (1992)
- *Cooke v. Williams*, 349 Conn. 451, 475-76, 316 A.3d 278 (2024)
- *Sinchak v. Commissioner of Correction*, 126 Conn. App. 684, 688, 14 A.3d 343 (2011)
- *U.S. Bank National Assn. v. Crawford*, 333 Conn. 731, 741 n.7, 219 A.3d 744 (2019)
- *Wojculewicz v. Cummings*, 143 Conn. 624, 628, 124 A.2d 886 (1956)
- *Perell v. Warden*, 113 Conn. 339, 342, 155 A. 221 (1931)
- *United States ex rel. Paleais v. Moore*, 294 F. 852, 855 (2d Cir. 1923), cert. denied, 264 U.S. 581, 44 S. Ct. 331, 68 L. Ed. 860 (1924)
- *Roger B. v. Commissioner of Correction*, 234 Conn. App. 630, 645, 344 A.3d 578 (2025)
- *Daniel W. E. v. Commissioner of Correction*, 235 Conn. App. 124, 139, 344 A.3d 601 (2025)
- *State v. Small*, 207 Conn. App. 349, 351 n.1, 262 A.3d 188 (2021)
- *State v. Casiano*, 122 Conn. App. 61, 70-71, 998 A.2d 792, cert. denied, 298 Conn. 931, 5 A.3d 491 (2010)
- *State v. Scott*, 139 Conn. App. 333, 340 n.6, 55 A.3d 608 (2012)
- *State ex rel. Dunn v. Burton*, 229 Conn. App. 267, 285 n.11, 327 A.3d 982 (2024)
- *Rose v. Commissioner of Correction*, 348 Conn. 333, 347 n.8, 304 A.3d 431 (2023)
- *Inglis v. Commissioner of Correction*, 213 Conn. App. 496, 535, 278 A.3d 518, cert. denied, 345 Conn. 917, 284 A.3d 300 (2022)
- *Kelley v. Commissioner of Correction*, 90 Conn. App. 329, 335, 876 A.2d 600, cert. denied, 276 Conn. 909, 886 A.2d 423 (2005)
- *Wright v. Commissioner of Correction*, 235 Conn. App. 816, 856-57, A.3d (2025)
- *Canady v. Commissioner of Correction*, 231 Conn. App. 603, 632, 333 A.3d 797, cert. denied, 352 Conn. 901, 334 A.3d 1006 (2025)