

SUPREME COURT OF OHIO

State ex rel. Davis v. Turner

2021 Ohio 1771 (Ohio 2021) · No. 2020-0934; 2020-1130 · Decided May 26, 2021

SUMMARY

The Supreme Court of Ohio affirmed the dismissal of Randy H. Davis’s habeas corpus petition, holding that the erroneous inclusion of postrelease control in his sentencing entry rendered the sentence voidable rather than void and that the alleged sentencing error was not cognizable in habeas corpus. The court also affirmed the denial of Davis’s motion to vacate court costs, distinguishing liability for costs from the potential exemption of prison-account funds from execution.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Maureen O'Connor, C.J.; Sharon L. Kennedy, J.; William M. Fischer, J.; Patrick F. DeWine, J.; Jennifer Brunner, J.; Michael P. Donnelly, J.; Melody J. Stewart, J.
JURISDICTION	Ohio
DECIDED	May 26, 2021
DOCKET	2020-0934; 2020-1130
DISPOSITION	affirmed
PROCEDURAL POSTURE	Davis appealed as of right from the Third District Court of Appeals' dismissal of his habeas corpus complaint and separately appealed the denial of his motion to vacate the assessment of court costs. The Supreme Court of Ohio consolidated the appeals and affirmed both rulings.
STANDARD OF REVIEW	Dismissal of a habeas corpus petition under Civ.R. 12(B)(6) is reviewed de novo.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Ohio; precedential
PARTIES	Randy H. Davis v. Neil Turner, Warden

TOPICS

- post-conviction relief
- civil procedure
- appellate procedure
- costs
- standard of review

PRACTICE AREAS

habeas corpus

post-conviction relief

sentencing

civil procedure

court costs

QUESTIONS PRESENTED

1. Whether the erroneous inclusion of postrelease control in Davis's sentencing entry rendered the judgment partially void and entitled him to habeas corpus relief.
2. Whether the trial court's failure to issue a corrected sentencing entry after vacating the postrelease-control provision made the conviction subject to habeas corpus relief under the one-document rule.
3. Whether R.C. 2329.66(A)(3)'s personal-funds exemption provided a basis to vacate the assessment of court costs.

HOLDINGS

1. An erroneous postrelease-control provision in a sentencing entry does not render the sentence void when the sentencing court had subject-matter and personal jurisdiction; the error makes the sentence voidable, not void. Because Davis's life sentence had not expired, he was not entitled to habeas corpus relief.
2. Even assuming the trial court should have issued a corrected judgment entry, the alleged failure constituted a nonjurisdictional sentencing error that was not cognizable in habeas corpus. Davis also had an adequate ordinary remedy by appealing the denial of his motion for a corrected entry.
3. R.C. 2329.66(A)(3) concerns exemptions applicable to execution of a judgment; it does not provide a basis for vacating the assessment of court costs against a losing party in a civil case.

KEY QUOTATIONS

*“A sentence is void when a sentencing court lacks jurisdiction over the subject matter of the case or personal jurisdiction over the accused. When the sentencing court has jurisdiction to act, sentencing errors in the imposition of postrelease control render the sentence voidable, not void * * *.”* (¶ 10)

FACTUAL BACKGROUND

Davis was convicted of murder in September 2001 and sentenced to 15 years to life in prison, with the judgment entry incorrectly stating that he was subject to postrelease control. In March 2018, the trial court vacated the postrelease-control portion because murder does not carry a postrelease-control sanction, while stating that the remainder of the sentence remained in effect. Davis later challenged the absence of a new sentencing entry and asserted that funds in his prison account were exempt from collection of court costs.

PROCEDURAL HISTORY

Davis was convicted and sentenced by the trial court in 2001. After the trial court vacated the improperly imposed postrelease-control provision in 2018, Davis sought a corrected judgment entry, but the trial court denied the request. Davis then filed a habeas corpus complaint, which the Third District dismissed under Civ.R. 12(B)(6) and assessed costs; the court later denied his objection to the costs as a motion to vacate. The Supreme Court of Ohio consolidated Davis's appeals and affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Clark, 119 Ohio St.3d 239, 2008-Ohio-3748, 893 N.E.2d 462, ¶ 36
- State ex rel. Norris v. Wainwright, 158 Ohio St.3d 20, 2019-Ohio-4138, 139 N.E.3d 867, ¶ 5
- State ex rel. Cannon v. Mohr, 155 Ohio St.3d 213, 2018-Ohio-4184, 120 N.E.3d 776, ¶ 10
- Leyman v. Bradshaw, 146 Ohio St.3d 522, 2016-Ohio-1093, 59 N.E.3d 1236, ¶¶ 8-9
- Heddleston v. Mack, 84 Ohio St.3d 213, 214, 702 N.E.2d 1198 (1998)
- State v. Baker, 119 Ohio St.3d 197, 2008-Ohio-3330, 893 N.E.2d 163, ¶¶ 17-18
- State v. Lester, 130 Ohio St.3d 303, 2011-Ohio-5204, 958 N.E.2d 142, paragraph one of the syllabus
- State v. Harper, 160 Ohio St.3d 480, 2020-Ohio-2913, 159 N.E.3d 248, ¶ 42
- State ex rel. Sneed v. Anderson, 114 Ohio St.3d 11, 2007-Ohio-2454, 866 N.E.2d 1084, ¶ 7
- State ex rel. Haynie v. Rudduck, 160 Ohio St.3d 99, 2020-Ohio-2912, 153 N.E.3d 91, ¶¶ 12-13
- UBS Fin. Servs., Inc. v. Lacava, 8th Dist. Cuyahoga No. 106461, 2018-Ohio-3055, ¶ 46
- State v. Brown, 156 Ohio App.3d 120, 2004-Ohio-558, 804 N.E.2d 1021, ¶¶ 9-12

OPINION

PER CURIAM.

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as State ex rel. Davis v. Turner, Slip Opinion No. 2021-Ohio-1771.] NOTICE This slip opinion is subject to formal revision before it is published in an advance sheet of the Ohio Official Reports. Readers are requested to promptly notify the Reporter of Decisions, Supreme Court of Ohio, 65 South Front Street, Columbus, Ohio 43215, of any typographical or other formal errors in the opinion, in order that corrections may be made before the opinion is published.

SLIP OPINION NO. 2021-OHIO-1771 THE STATE EX REL. DAVIS, APPELLANT, v. TURNER, WARDEN, APPELLEE. [Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as State ex rel. Davis v. Turner, Slip Opinion No. 2021-Ohio-1771.] Habeas corpus—Erroneous inclusion of a postrelease-control sanction in a judgment entry of conviction does not render the sentencing entry void— Challenges to a sentencing error by a trial court are not cognizable in habeas corpus—Liability for court costs and personal-funds exemption from judgment execution under R.C.

2329.66(A) distinguished—Judgment dismissing petition for writ affirmed—Denial of motion to vacate judgment of court costs affirmed. (Nos. 2020-0934 and 2020-1130—Submitted March 2, 2021—Decided May 26, 2021.) APPEALS from the Court of Appeals for Marion County, No. 9-20-12. _____ SUPREME COURT OF OHIO Per Curiam. {¶ 1} Appellant, Randy

H. Davis, is incarcerated in the North Central Correctional Complex, where appellee, Neil Turner, is the warden.

In case No. 2020-0934, Davis appeals the Third District Court of Appeals' judgment dismissing his habeas corpus complaint. In case No. 2020-1130, Davis appeals separately from the court of appeals' order denying his motion to vacate the assessment of court costs against him.

We affirm in both cases. I. Background {¶ 2} Davis was convicted of murder in September 2001 and sentenced to 15 years to life in prison. The trial court's judgment entry also stated that Davis was subject to postrelease control. {¶ 3} In March 2018, the trial court vacated the postrelease-control portion of Davis's sentence because the offense of murder is a special felony that does not carry a postrelease-control sanction.

See R.C. 2967.28(B); *State v. Clark*, 119 Ohio St.3d 239, 2008-Ohio-3748, 893 N.E.2d 462, ¶ 36 (offender convicted of murder is placed on parole if released from prison). The trial court stated that the remainder of Davis's sentence "is entirely proper and remains in effect." The trial court did not journalize a new sentencing entry. Davis later filed a motion for a "corrected judgment entry," which the trial court denied in July 2018. {¶ 4} Davis filed a complaint for a writ of habeas corpus in the court of appeals in April 2020.

Davis alleged that his original sentence is "partially void" due to its improper inclusion of a postrelease-control sanction. Turner filed a motion to dismiss Davis's complaint under Civ.R. 12(B)(6). In a June 2020 judgment entry, the court of appeals found that Davis failed to state any cognizable claim for relief in habeas corpus, dismissed the complaint, and assessed costs against Davis.

In case No. 2020-0934, Davis has timely appealed to this court as of right from the judgment dismissing his habeas complaint. 2 January Term, 2021 {¶ 5} Following the dismissal of Davis's complaint, the warden's collection designee sent Davis notice of the court's judgment against him for the payment of court costs. See Ohio Adm.Code 5120-5-03(C) (requiring the warden's designee to provide notice to an inmate prior to withdrawing any money from the inmate's account to satisfy a court's judgment).

Davis submitted a timely, written objection to the warden's collection designee. In his written objection, Davis stated that the funds in his account were exempt from collection under R.C. 2329.66(A)(3), which exempts certain personal funds from execution, garnishment, or attachment to satisfy a judgment or order. {¶ 6} Davis then filed a document titled "Objection to Judgment for Payment" with the court of appeals, in which he renewed his objection to the imposition of costs against him, claiming an exemption under R.C.

2329.66(A)(3). The court of appeals treated Davis's objection as a motion to vacate court costs and denied the motion. In case No. 2020-1130, Davis has appealed the order denying the motion to

vacate court costs. {¶ 7} The parties have each filed briefs in both appeals.

Because both appeals arise from the same proceeding below, we consolidate them for decision in this opinion. II. Analysis A. Appeal in Case No. 2020-0934 {¶ 8} This court reviews the dismissal of a habeas corpus petition under Civ.R. 12(B)(6) de novo. *State ex rel. Norris v. Wainwright*, 158 Ohio St.3d 20, 2019-Ohio-4138, 139 N.E.3d 867, ¶ 5.

To be entitled to a writ of habeas corpus, Davis must show that he is being unlawfully restrained of his liberty, R.C. 2725.01, and that he is entitled to immediate release from prison or confinement, *State ex rel. Cannon v. Mohr*, 155 Ohio St.3d 213, 2018-Ohio-4184, 120 N.E.3d 776, ¶ 10. “A writ of habeas corpus is generally ‘available only when the petitioner’s maximum sentence has expired and he is being held unlawfully.’ ” *Leyman v. 3 SUPREME COURT OF OHIO Bradshaw*, 146 Ohio St.3d 522, 2016-Ohio-1093, 59 N.E.3d 1236, ¶ 8, quoting *Heddleston v. Mack*, 84 Ohio St.3d 213, 214, 702 N.E.2d 1198 (1998).

Further, habeas corpus is not available when the petitioner has an adequate remedy in the ordinary course of law, unless a trial court’s judgment is void for lack of jurisdiction. *Id.* at ¶ 8-9. {¶ 9} Davis contends that he is imprisoned under a judgment entry of conviction that is “partially void” due to its inclusion of a postrelease-control sanction that was contrary to law.

Even though the trial court vacated the postrelease-control sanction in 2018, Davis argues that the trial court failed to issue a corrected sentencing entry. Thus, he argues that his conviction is void because “there are two separate judgment entries controlling appellant’s conviction and sentence,” in violation of the so-called “one document” rule. See *State v. Baker*, 119 Ohio St.3d 197, 2008-Ohio-3330, 893 N.E.2d 163, ¶ 17-18 (holding that only one document can constitute a final, appealable judgment of conviction), modified in part on other grounds, *State v. Lester*, 130 Ohio St.3d 303, 2011-Ohio-5204, 958 N.E.2d 142, paragraph one of the syllabus. {¶ 10} Davis’s premise that his original judgment of conviction is “partially void” is incorrect.

Though the judgment erroneously imposed postrelease control, that error did not render the judgment void. “A sentence is void when a sentencing court lacks jurisdiction over the subject matter of the case or personal jurisdiction over the accused. When the sentencing court has jurisdiction to act, sentencing errors in the imposition of postrelease control render the sentence voidable, not void * * *.” *State v. Harper*, 160 Ohio St.3d 480, 2020-Ohio-2913, 159 N.E.3d 248, ¶ 42.

Accordingly, Davis’s sentence is not void. *Id.* And because his maximum sentence of life imprisonment has not yet expired, Davis is not entitled to a writ of habeas corpus. {¶ 11} Davis’s contention that the trial court failed to issue a corrected judgment entry of conviction does not change the result. Davis argues that the 4 January Term, 2021 court’s failure to issue a corrected judgment entry after vacating the postrelease- control provision means that his conviction violates

the “one document rule.” Even if this court accepts Davis’s contention as true, his argument amounts to nothing more than a challenge to an arguable sentencing error by the trial court.

But sentencing errors are not jurisdictional and, therefore, not cognizable in habeas corpus. *State ex rel. Sneed v. Anderson*, 114 Ohio St.3d 11, 2007-Ohio-2454, 866 N.E.2d 1084, ¶ 7. {¶ 12} Davis acknowledges that he filed a motion requesting that the trial court issue a corrected judgment entry, which the trial court denied. Davis could have appealed the order denying his motion, which would have been an adequate remedy in the ordinary course of law that precludes extraordinary relief.

See *State ex rel. Haynie v. Rudduck*, 160 Ohio St.3d 99, 2020-Ohio-2912, 153 N.E.3d 91, ¶ 12-13. {¶ 13} For these reasons, Davis’s claims are not cognizable in habeas corpus. The court of appeals correctly dismissed Davis’s complaint. B. Appeal in Case No. 2020-1130 {¶ 14} The court of appeals dismissed Davis’s complaint “with costs assessed to [Davis] for which judgment is hereby rendered.” Through the date of dismissal, the court costs assessed against Davis totaled \$136.95.

Davis filed a post-judgment “Objection to Judgment for Payment,” which the court of appeals denied as a motion to vacate court costs. {¶ 15} Davis contends that the funds in his prison account are exempt from execution, garnishment, or attachment to satisfy the judgment for costs. Davis relies on R.C. 2329.66(A)(3), which exempts up to \$500 “on deposit with a bank, savings and loan association, credit union, public utility, landlord, or other person, other than personal earnings.”¹ Davis avers that he has less than \$400 in his prison 1.

R.C. 2329.66(A)(3) exempts up to \$400, but the General Assembly has also prescribed that the Ohio Judicial Conference shall adjust the exemption amounts every three years to reflect increases 5 SUPREME COURT OF OHIO account. And because of the R.C. 2329.66(A)(3) exemption, Davis argues that it was improper for the court of appeals to hold him liable for court costs. {¶ 16} Davis’s argument, however, confuses the issue of liability for costs with the separate issue of executing the judgment for costs.

R.C. 2329.66(A) concerns exemptions that could apply upon execution of the judgment for costs. See *UBS Fin. Servs., Inc. v. Lacava*, 8th Dist. Cuyahoga No. 106461, 2018-Ohio- 3055, ¶ 46. The statute does not provide a basis for vacating an assessment of costs against the losing party in a civil case.

To the extent that Davis wants to challenge the prison’s garnishment of his funds to satisfy the judgment, he should invoke the procedures established in Ohio Adm.Code 5120-5-03 and seek judicial relief if the prison garnishes funds without following those procedures. *State v. Brown*, 156 Ohio App.3d 120, 2004-Ohio-558, 804 N.E.2d 1021, ¶ 9-12 (10th Dist.). III.

Conclusion {¶ 17} For the foregoing reasons, the court of appeals did not err in dismissing Davis’s habeas petition or in denying Davis’s motion to vacate the judgment of court costs assessed

against him. Judgment affirmed. O’CONNOR, C.J., and KENNEDY, FISCHER, DEWINE, DONNELLY, STEWART, and BRUNNER, JJ., concur. _____ Randy H. Davis, pro se. Dave Yost, Attorney General, and Stephanie L. Watson, Assistant Attorney General, for appellee. _____ in the consumer price index.

See R.C. 2329.66(B). The current exemption amount for moneys described in R.C. 2329.66(A)(3) is \$500. See <http://www.ohiojudges.org/Resources/publications> (accessed Apr. 21, 2021) [<https://perma.cc/V5EN-ZXF2>]. 6