

SUPREME COURT OF OHIO

State ex rel. Lindsay v. Department of Rehabilitation & Correction

State ex rel. Lindsay v. Dept. of Rehab. & Corr., 2023 Ohio 689 (Ohio 2023) · No. 2022-0402 · Decided March 8, 2023

SUMMARY

The Supreme Court of Ohio affirmed the dismissal of Wendell R. Lindsay II’s habeas corpus petition. The court held that an inmate has no constitutional right to parole before expiration of the sentence, that an agency mistake regarding parole does not create a vested right to immediate release, and that any procedural due-process remedy would not be immediate release. The court also rejected Lindsay’s ex post facto and separation-of-powers arguments, explaining that he was sentenced under Ohio’s sexually violent predator sentencing law rather than convicted of a sexually violent predator specification.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Chief Justice Kennedy; Justice Fischer; Justice DeWine; Justice Donnelly; Justice Stewart; Justice Brunner; Justice Deters
JURISDICTION	Ohio
DECIDED	March 8, 2023
DOCKET	2022-0402
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal as of right from the Third District Court of Appeals' dismissal of a petition for a writ of habeas corpus.
STANDARD OF REVIEW	The court reviews dismissals under Civ.R. 12(B)(6) de novo.
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion; precedential
PARTIES	Wendell R. Lindsay II v. Department of Rehabilitation and Correction, Adult Parole Authority, Tom Watson, warden of North Central Correctional Complex, Richland County Common Pleas Court

TOPICS

- habeas corpus
- post-conviction relief
- procedural due process
- ex post facto
- separation of powers

PRACTICE AREAS

habeas corpus

state post-conviction relief

criminal procedure

parole

QUESTIONS PRESENTED

1. Whether Lindsay's habeas petition could obtain immediate release based on prison officials' mistaken communications that he had been granted parole.
2. Whether the alleged rescission of the prospective release date violated due process or equal protection.
3. Whether applying the sexually-violent-predator sentencing law or reconsidering Lindsay's parole status violated the Ex Post Facto Clause or separation-of-powers doctrine.

HOLDINGS

1. Habeas corpus does not lie to secure immediate release where the alleged error does not establish unlawful custody or entitle the petitioner to immediate release; an inmate has no constitutional right to parole before expiration of the sentence.
2. Even assuming a protected liberty interest, an alleged procedural-due-process violation in parole-review procedures would at most support mandamus compelling a second review, not habeas corpus relief requiring immediate release.
3. The record did not establish that DRC imposed an uncharged sexually-violent-predator specification or changed Lindsay's judicially imposed sentence; DRC's reconsideration of parole status therefore did not support Lindsay's ex post facto or separation-of-powers claims.

KEY QUOTATIONS

“With few exceptions, habeas corpus will lie only to challenge the jurisdiction of the sentencing court.” (¶ 8)

“Nevertheless, even assuming that Lindsay could establish a vested liberty interest, his remedy for an alleged procedural-due-process violation would not be immediate release from prison.” (¶ 12)

“That error does not create a constitutional right to parole.” (¶ 14)

FACTUAL BACKGROUND

In 2010, a Richland County jury convicted Lindsay of rape of a minor, sexual battery, and gross sexual imposition, and the trial court imposed an aggregate prison term of ten years to life. Prison officials and parole personnel initially informed Lindsay that he had been granted parole and would be released on June 17, 2021, but later told him that the release had resulted from a mistake and that the parole board had not issued parole. Lindsay contended that officials improperly relied on the sexually-violent-predator sentencing law and sought immediate release through habeas corpus.

PROCEDURAL HISTORY

Lindsay was convicted in Richland County of rape of a minor, sexual battery, and gross sexual imposition and received an aggregate prison term of ten years to life. After prison officials rescinded what Lindsay believed was a grant of parole, he filed a habeas petition in the Third District, asserting that he was entitled to immediate

release and that the rescission violated due process, equal protection, the Ex Post Facto Clause, and separation of powers. The Third District dismissed the petition, and the Supreme Court of Ohio affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Lindsay, 5th Dist. Richland No. 2010-CA-0134, 2011-Ohio-4747, ¶ 5
- Johnson v. Timmerman-Cooper, 93 Ohio St.3d 614, 616, 757 N.E.2d 1153 (2001)
- Pegan v. Crawmer, 76 Ohio St.3d 97, 99, 666 N.E.2d 1091 (1996)
- State ex rel. Quillen v. Wainwright, 152 Ohio St.3d 566, 2018-Ohio-922, 99 N.E.3d 360, ¶ 6
- State ex rel. McKinney v. Schmenk, 152 Ohio St.3d 70, 2017-Ohio-9183, 92 N.E.3d 871, ¶ 8
- State v. Meeks, 6th Dist. Ottawa No. OT-22-015, 2022-Ohio-2436, ¶ 7
- State ex rel. Bailey v. Ohio Parole Bd., 152 Ohio St.3d 426, 2017-Ohio-9202, 97 N.E.3d 433, ¶ 9
- State ex rel. Ellison v. Black, 165 Ohio St.3d 310, 2021-Ohio-3154, 178 N.E.3d 508, ¶ 12
- Scarberry v. Turner, 139 Ohio St.3d 111, 2014-Ohio-1587, 9 N.E.3d 1022, ¶ 14
- Third District Court of Appeals, Marion No. 9-21-43, at 5 (Mar. 10, 2022)