

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF GRAND TRAVERSE

LYNN EDWARD JONES,

Petitioner,

v

File No. 2015031012AH
HON. PHILIP E. RODGERS, JR.

SHIRLEE HARRY, MICHIGAN DEPARTMENT
OF CORRECTIONS and PUGSLEY
CORRECTIONAL FACILITY

Respondents.

Petitioner Acting in Pro Per

DECISION AND ORDER DENYING COMPLAINT FOR WRIT OF HABEAS CORPUS

The above captioned Petitioner is currently incarcerated at Pugsley Correctional Facility in Grand Traverse County, Michigan. Petitioner previously pled guilty in Kent County to one count of Using a Computer to Commit a Crime, pursuant to MCL § 752.797(3), one count of Child Sexually Abusive Material or Activity, pursuant to MCL § 750.145(c), and one count of Criminal Sexual Conduct, Third Degree, pursuant to MCL § 750.520(d). On November 29, 2012, Petitioner was sentenced to serve 84 to 240 months with the Michigan Department of Corrections (MDOC).

On June 4, 2015, the Petitioner filed a Verified Complaint for Writ of Habeas Corpus Seeking Expungement of a Falsified Misconduct Report.

A complaint for habeas corpus must state:

- (1) That the person on whose behalf the write is applied for is restrained of his or her liberty;
- (2) The name, if known, or the description of the prisoner;
- (3) The name, if known, or the description of the officer or person by whom the prisoner is restrained;
- (4) The place of restraint, if known;
- (5) That the action for habeas corpus by or on behalf of the prisoner is not prohibited;
- (6) The cause or pretense of the restraint, according to the plaintiff's best knowledge and belief; and

(7) Why the restraint is illegal.¹

Pursuant to MCL § 600.4301 *et seq*:

[A]n action for habeas corpus to inquire into the cause of detention may be brought by or on the behalf of any person restrained of his liberty within this state under any pretense whatsoever, except...persons convicted, or in execution, upon legal process, civil or criminal [and] persons committed on original process in any civil action on which they were liable to be arrested and imprisoned, unless excessive and unreasonable bail is required.²

Thus, habeas corpus cannot serve as a substitute for an appeal or writ of error and cannot be used to review the merits of a criminal conviction.³ MCL § 600.4310(3) prohibits a habeas action by or on behalf of “persons convicted, or in execution, upon legal process, civil or criminal,” and is not a means of testing the conditions of admittedly lawful custody.⁴ Here, Petitioner states that, “The cause of [his] imprisonment is lawful...but the disciplinary procedure is unlawful, in violation of the United States and Michigan Constitution.” The Petitioner is contesting the disciplinary and hearing procedures of the MDOC, versus the legality of his incarceration. MDOC disciplinary and hearing procedures cannot generally be addressed by a writ of habeas corpus.⁵ Therefore, for the reasons stated herein, the Petitioner’s Verified Complaint for Writ of Habeas Corpus Seeking Expungement of a Falsified Misconduct Report is denied and this case is dismissed.

IT IS SO ORDERED.

HONORABLE PHILIP E. RODGERS, JR.
Circuit Court Judge

¹ MCR 3.303(C).

² MCL § 600.4307; § 600.4310.

³ *Cross v Dep’t of Corrections*, 103 Mich App 409; 303 NW2d 218 (1981).

⁴ *Harris v Nelson*, 394 US 286; 89 S Ct 1082; 22 L Ed 2d 281 (1969); *Walker v Wainwright*, 390 US 335; 88 S Ct 962; 19 L Ed 2d 1215 (1968), rehearing denied, 390 US 1036; 88 S Ct 1420; 20 L Ed 2d 299.

⁵ Unless the contested hearing procedures pertain to parole.