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Summary of Coleman v. State, 130 Nev. Adv. Op. 22

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CRIMINAL PROCEDURE: WRIT OF HABEAS CORPUS

Summary

The Court determined whether a person who is serving a sentence of lifetime supervision may challenge that sentence by filing a post-conviction petition for a writ of habeas corpus.

Disposition

A person may not file a post-conviction petition for a writ of habeas corpus to challenge a sentence of lifetime supervision.

Factual and Procedural History

In 2002, Coleman pled guilty to lewdness with a child under the age of 14 years. The district court sentenced Coleman to life in prison with the possibility of parole after 10 years; however, the court suspended the sentence and placed him on probation for a term of 5 years. Additionally, the court imposed a special sentence of lifetime supervision to commence upon completion of any term of imprisonment, probation or parole.

In 2007, Coleman began serving his sentence of lifetime supervision after being discharged from probation. Conditions of Coleman's lifetime supervision included restrictions on his place of residence, his consumption of intoxicants and controlled substances, his out-of-state travel, and much more. In 2012, Coleman sought release from his sentence and conditions of lifetime supervision and filed a post-conviction petition for a writ of habeas corpus. The district court denied the petition.

Discussion

A post-conviction petition for a writ of habeas corpus must be filed in compliance with NRS Chapter 34. Under NRS 34.724(1), a person "convicted of a crime and under sentence of death or imprisonment" may file a post-conviction petition for a writ of habeas corpus to challenge the conviction or sentence.² Thus, a petitioner who is no longer under a sentence of death or imprisonment cannot file a post-conviction petition for a writ of habeas corpus.

The Court turned to statutory interpretation to decide whether a sentence of lifetime supervision qualifies as a sentence of imprisonment. Looking to the statute's plain meaning, the Court noted that a sentence of imprisonment requires a person to be placed in a prison or a place of confinement. In this way, lifetime supervision is not itself a sentence of imprisonment because a person is merely supervised by probation officers and not placed in a prison or another place of confinement. Additionally, a violation

¹ By Kylee Gloeckner.

² NEV. REV. STAT. § 34.724(1) (2013).

under lifetime supervision is a new offense, unlike probation or parole violations that can result in reinstatement of a still unexpired sentence. Thus, the Court determined a petitioner under lifetime supervision is not under a sentence of imprisonment within the meaning of NRS 34.724(1) and could not seek relief with a habeas corpus petition.

Finally, the Court rejected Coleman's argument that he is left without a remedy, noting he can petition to be released from lifetime supervision under other Nevada laws.

Conclusion

When Coleman filed his post-conviction for a writ of habeas corpus, he had already been discharged from probation; thus, he was not under a sentence of imprisonment and not eligible for post-conviction habeas relief. Because a person who is subject only to lifetime supervision may not file a post-conviction petition for a writ of habeas corpus, the court affirmed the district court's order denying Coleman's petition.