

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 38428

LELAND A. RIDGLEY,)	2011 Unpublished Opinion No. 578
)	
Petitioner-Appellant,)	Filed: August 10, 2011
)	
v.)	Stephen W. Kenyon, Clerk
)	
ISCI WARDEN, JOHANNA SMITH,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Daniel C. Hurlbutt, District Judge.

Order dismissing petition for writ of habeas corpus, affirmed.

Leland A. Ridgley, Boise, pro se appellant.

Hon. Lawrence G. Wasden, Attorney General; Mark A. Kubinski, Deputy Attorney General, Boise, for respondent, but did not participate on appeal.

MELANSON, Judge

Leland A. Ridgley appeals from the district court’s order dismissing his petition for writ of habeas corpus. For the reasons set forth below, we affirm.

A day or two after the death of his wife, Ridgley was arrested and charged with lewd and lascivious conduct with a minor under sixteen. I.C. § 18-1508. Ridgley pled guilty to that charge approximately two weeks after his arrest. Before sentencing, he filed a motion to withdraw his guilty plea on grounds that he had not been adequately represented and advised by his attorney prior to entry of the plea. The district court denied the motion. In an unpublished opinion on direct appeal, this Court affirmed the denial of Ridgley’s motion as well as the length of his sentence. *State v. Ridgley*, Docket No. 29320 (Ct. App. Apr. 6, 2004).

Ridgley thereafter filed an application for post-conviction relief, claiming ineffective assistance of counsel. Ridgley asserted that his attorney’s performance was deficient because counsel had met with Ridgley for less than one hour before Ridgley pled guilty, failed to provide a copy of the police report, failed to contact potential witnesses, failed to watch or listen to tapes

of interviews of the victim, failed to advise Ridgley of potential defenses, and failed to take steps to determine whether Ridgley's severe grief and depression rendered him incompetent or unable to make a rational decision about pleading guilty. The district court summarily dismissed the post-conviction application. In an unpublished opinion on appeal, this Court, with Judge Perry dissenting, reversed and remanded only as to Ridgley's claim of ineffective assistance based upon his attorney's failure to request a mental evaluation or otherwise ensure that Ridgley's decision to plead guilty was not the product of severe depression or emotional breakdown. *Ridgley v. State*, Docket No 33782 (Ct. App. Aug. 6, 2001). Our Idaho Supreme Court then granted the state's petition for review and affirmed the trial court in all respects based upon Ridgley's failure to demonstrate the existence of a genuine issue of material fact supporting his claim that his attorney's allegedly deficient performance resulted in prejudice. *Ridgley v. State*, 148 Idaho 671, 227 P.3d 925 (2010).

Ridgley then filed a pro se petition for writ of habeas corpus. In his petition, Ridgley asserts that his judgment of conviction should be vacated on numerous grounds, which are similar to the grounds stated in his post-conviction case and are based upon his asserted mental incapacity and ineffective assistance of trial counsel. Ridgley also argues that he was deprived of his constitutional rights because the trial court failed to recognize that Ridgley was suffering from diminished capacity, failed to sua sponte order a psychological examination, and the prosecutor took advantage of Ridgley's confused mental state. Finally, Ridgley claims that his appellate counsel was ineffective. The district court dismissed Ridgley's petition because his claims were not proper claims for habeas corpus relief and Ridgley had not alleged the respondent's actions or inactions had resulted in any constitutional deprivation.

The writ of habeas corpus is a constitutionally mandated mechanism to effect the discharge of an individual from unlawful confinement. *See* IDAHO CONST. art. I, § 5; I.C. §§ 19-4201 to 19-4229; *Mahaffey v. State*, 87 Idaho 228, 231, 392 P.2d 279, 280 (1964); *Gawron v. Roberts*, 113 Idaho 330, 333, 743 P.2d 983, 986 (Ct. App. 1987). The essence of habeas corpus is an attack upon the legality of a person's detention for the purpose of securing release where custody is illegal and is an avenue by which relief can be sought where detention of an individual is in violation of a fundamental right. *In re Robison*, 107 Idaho 1055, 1057, 695 P.2d 440, 442 (Ct. App. 1985). An in-state prisoner may file a petition for writ of habeas corpus to request that a court inquire into state or federal constitutional questions concerning conditions of

confinement, the revocation of parole, miscalculation of a sentence, loss of good time credits, or detainers lodged against the prisoner. I.C. §§ 19-4203(2)(a)-(e). Habeas corpus should not be used as a substitute for, or in addition to, a direct appeal of a criminal conviction or proceeding under Idaho Criminal Rule 35 or the Uniform Post-Conviction Procedures Act. I.C. § 19-4203(4).

The decision to issue a writ of habeas corpus is a matter within the discretion of the court. *Johnson v. State*, 85 Idaho 123, 127, 376 P.2d 704, 706 (1962); *Brennan v. State*, 122 Idaho 911, 914, 841 P.2d 441, 444 (Ct. App. 1992). When we review an exercise of discretion in a habeas corpus proceeding, we conduct a three-tiered inquiry to determine whether the lower court rightly perceived the issue as one of discretion, acted within the boundaries of such discretion, and reached its decision by an exercise of reason. *Brennan*, 122 Idaho at 914, 841 P.2d at 444; *Sivak v. Ada County*, 115 Idaho 762, 763, 769 P.2d 1134, 1135 (Ct. App. 1989). If a petitioner is not entitled to relief on an application for a writ of habeas corpus, the decision by the petitioned court to dismiss the application without an evidentiary hearing will be upheld. *Brennan*, 122 Idaho at 917, 841 P.2d at 447.

A petition for writ of habeas corpus is not an appropriate action for raising claims of constitutional violations or ineffective assistance of counsel in order to challenge an underlying criminal judgment. I.C. § 19-4203(4); *Lake v. Newcomb*, 140 Idaho 190, 196, 90 P.3d 1272, 1278 (Ct. App. 2004); *O'Neill v. State*, 92 Idaho 885, 452 P.2d 989 (1969). The Uniform Post-Conviction Procedure Act is the exclusive means for challenging the validity of a conviction or sentence other than direct appeal. I.C. § 19-4901(b); *Hays v. State*, 132 Idaho 516, 519, 975 P.2d 1181, 1184 (Ct. App. 1999). Ridgley's claims all pertain to the effectiveness of his trial or appellate counsel, acts or omissions of the trial court or prosecuting attorney, and Ridgley's allegations of mental incapacity brought in order to challenge the underlying criminal judgment. Such claims are not appropriate claims for habeas corpus relief.

While not argued by Ridgley, we note that a petition for writ of habeas corpus challenging a criminal conviction or sentence is treated as an application for post-conviction relief. *Palmer v. Dermitt*, 102 Idaho 591, 635 P.2d 955 (1981). Ridgley, however, pled guilty in Boundary County but filed his habeas corpus petition in Ada County. Our Idaho Supreme Court has held that a petition for writ of habeas corpus, treated as an application for post-conviction relief, was properly dismissed because the petition was not filed in the district court in which the

conviction took place. *Still v. State*, 95 Idaho 766, 768, 519 P.2d 435, 437 (1974); *see also* I.C. § 19-4902; *Abbott v. State*, 129 Idaho 381, 385-86, 924 P.2d 1225, 1229-30 (Ct. App. 1996). Despite reservations expressed in *Abbott* by two members of this Court, we are constrained to follow *Still*. Accordingly, the order of the district court dismissing Ridgley's petition for writ of habeas corpus is affirmed.

Judge LANSING and Judge GUTIERREZ, **CONCUR.**