STATE OF MINNESOTA

IN SUPREME COURT

A18-0740

Postmarked 2/21/2019
Received 2/26/2019

Joel Marvin Munt,

Petitioner,

vs.

Eddie Miles,

Respondent.

ORDER

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the motion of Joel Marvin Munt for leave to proceed in forma pauperis in this court be, and the same is, granted.

IT IS FURTHER ORDERED that the petition of Joel Marvin Munt for further review be, and the same is, denied.

Dated: February 19, 2019

BY THE COURT:

Lorie S. Gildea
Chief Justice

STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0740

Joel Marvin Munt, petitioner,
Appellant,

vs.

Eddie Miles,
Respondent.

Filed November 26, 2018
Affirmed
Reilly, Judge

Washington County District Court
File No. 82-CV-18-1718

Joel Marvin Munt, Stillwater, Minnesota (pro se appellant)

Lori Swanson, Attorney General, Kelly S. Kemp, Assistant Attorney General, St. Paul, Minnešota (for respondent)

Considered and decided by Schellhas, Presiding Judge; Reilly, Judge; and Florey, Judge.

UNPUBLISHED OPINION

REILLY, Judge

Appellant challenges the district court's denial of his application to proceed in forma pauperis and his petition for a writ of habeas corpus. We affirm.

FACTS

Appellant Joel Marvin Munt is serving life in prison following his conviction for first-degree murder. The conviction was affirmed on direct appeal. *State v. Munt*, 831 N.W.2d 569 (Minn. 2013). In November 2017, appellant handed a 19-page "love letter" to a corrections officer. The officer filed an incident report and turned the letter over to prison authorities. The prison charged appellant with violating four Offender Discipline Regulations (ODRs) for abuse/harassment, disorderly conduct, sexual behavior, and soliciting/bribery. Appellant admitted to abuse/harassment and disorderly conduct and the remaining two charges were withdrawn. The prison imposed a sanction of ten days in segregation, which appellant completed. In April 2018, appellant attempted to initiate a habeas corpus proceeding against the prison warden, challenging the "[d]isciplinary charges, policy, and punishment received" as a consequence to his admission that he violated the prison's ODRs. Appellant sought an order permitting him to proceed in forma pauperis (IFP). The district court denied appellant's request to proceed IFP and dismissed the action with prejudice, determining that the habeas petition was "frivolous or malicious" because it had "no arguable basis in law or in fact." This appeal follows.

DECISION

I. Appellant's habeas petition is moot.

It is uncontested that appellant served ten days of disciplinary segregation before seeking relief. "A case is moot if there is no justiciable controversy for a court to decide." *Pechovnik v. Pechovnik*, 765 N.W.2d 94, 97 (Minn. App. 2009). Whether a cause of action is moot is a question of law reviewed de novo. *In re Risk Level Determination of J.V.*, 741

N.W.2d 612, 614 (Minn. App. 2007), *review denied* (Minn. Feb. 19, 2008). A matter may be dismissed as moot if the court cannot grant effective relief. *Id.* (citation omitted). We will ordinarily dismiss a dispute when it is "settled or in some other way resolved" prior to adjudication. *State v. Rud*, 359 N.W.2d 573, 576 (Minn. 1984). Here, appellant did not seek immediate release from confinement. Instead, appellant was already out of segregated confinement at the time he sought to file his habeas corpus petition, challenging a penalty which he had already served. Because there is no longer a live controversy for this court to decide, we hold that appellant's petition is moot and the district court did not err by dismissing the action.[1]

Appellant argues that an exception to the mootness doctrine applies. An appeal is not moot when collateral consequences attach to the penalty. *In re McCaskill*, 603 N.W.2d 326, 327 (Minn. 1999). Appellant bears the burden of producing evidence that collateral consequences "actually resulted" from a judgment. *Id.* at 329. Appellant has not satisfied his burden of production here. Appellant argues that collateral consequences may attach as a result of his discipline because he is innocent of the underlying charges and suffered reputational harm, he has been prohibited from speaking to the corrections officer to whom he sent the love letter, and he may have difficulty qualifying for certain types of prison jobs

[1] Appellant previously filed a habeas petition against the prison in 2016, challenging a disciplinary penalty of 30 days in segregated confinement imposed for violations of the prison's ODRs. *See Munt v. Smith*, No. A16-0462, 2016 WL 7042010, at *1 (Minn. App. Dec. 5, 2016), *review denied* (Minn. Feb. 14, 2017), *cert. denied*, 138 S. Ct. 85 (2017). We deemed that petition moot and dismissed it, reasoning that because appellant completed his confinement before filing his petition, there was "no unlawful confinement from which his punishment-contesting habeas petition can afford him relief." *Id.* at *3.

due to his disciplinary record. We determine that appellant's speculative claims, in the absence of actual or direct evidence, are insufficient to demonstrate an exception to the mootness doctrine. *See, e.g., Carafas v. LaVallee*, 391 U.S. 234, 237, 88 S. Ct. 1556, 1559 (1968) (discussing direct effects which render the case justiciable).

We also reject appellant's argument that he is entitled to an exception because the issue is capable of repetition but will evade review. *See In re Schmidt*, 443 N.W.2d 824, 826 (Minn. 1989). Appellant argues that this exception applies because "the low standard for punishment [suggests that] there is a realistic possibility [he] will be punished again." "But the capable-of-repetition exception cannot revive a dispute that was moot before commencement of the action." *State ex rel. Sviggum v. Hanson*, 732 N.W.2d 312, 322 (Minn. App. 2007). Because appellant served ten days of segregation several months before he sought to file his habeas petition, the petition was moot before it was filed. Appellant has not established that an exception applies.

Finally, we are not persuaded by appellant's argument that his habeas petition is not moot under *Heck v. Humphrey*, 512 U.S. 477, 487-89, 114 S. Ct. 2364, 2372-73 (1994). *Heck* involved a claim arising under 42 U.S.C. § 1983. *Id.* at 479, 114 S. Ct. at 2368 (alleging violations that directly challenged legality of conviction). *Heck* does not apply to a state prisoner's claim against a corrections officer where the suit does not seek a judgment at odds with the prisoner's conviction or with the state's calculation of time to be served in accordance with the underlying sentence. *Muhammad v. Close*, 540 U.S. 749, 751, 124 S. Ct. 1303, 1304 (2004). Appellant is not seeking a judgment at odds with his

underlying conviction or with the state's calculation of time to be served, and *Heck* therefore does not apply.

In sum, we determine that appellant has not established that a mootness exception exists, and so the district court did not err by dismissing appellant's petition as moot.[2]

II. Appellant is not entitled to relief on the merits.

If we were to assume appellant's petition is not moot, then we would nevertheless determine that he is not entitled to relief on the merits. "A person imprisoned or otherwise restrained of liberty . . . may apply for a writ of habeas corpus to obtain relief from imprisonment or restraint." Minn. Stat. § 589.01 (2016). A writ of habeas corpus may also be used to challenge conditions of confinement or to raise claims involving fundamental constitutional rights or significant restraints on liberty. *Guth v. Fabian*, 716 N.W.2d 23, 26-27 (Minn. App. 2006), *review denied* (Minn. Aug. 15, 2006). The burden of proof rests with the petitioner. *Bedell v. Roy*, 853 N.W.2d 827, 829 (Minn. App. 2014), *review denied* (Minn. Oct. 28, 2014).

An inmate may proceed IFP if the inmate satisfies the statutory criteria articulated in Minn. Stat. § 563.02, subd. 2 (2016). The district court shall dismiss an action in which an inmate seeks to proceed IFP with prejudice, if the court determines that the underlying action is frivolous or malicious. *Id.*, subd. 3(a) (2016). In making this determination, the court considers whether "the claim has no arguable basis in law or fact" or "the claim is substantially similar to a previous claim that was brought against the same party, arises

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[2] Appellant includes additional issues on appeal, including allegations that the prison violated his constitutional rights. Our mootness decision precludes these issues.

from the same operative facts, and in which there was an action that operated as an adjudication on the merits." *Id.*, subd. 3(b) (2016). The district court has broad discretion in considering IFP proceedings and will not be reversed absent an abuse of that discretion. *Maddox v. Dep't of Human Servs.*, 400 N.W.2d 136, 139 (Minn. App. 1987).

The district court did not abuse its discretion by denying appellant's IFP request on the ground that his habeas corpus claims were frivolous and had no basis in law or in fact. The grounds for a habeas corpus petition are limited to constitutional issues and jurisdictional challenges. *Bedell*, 853 N.W.2d at 829. A habeas corpus petitioner may also obtain judicial review of the Minnesota Department of Correction's implementation of a sentence. *State v. Schnagl*, 859 N.W.2d 297, 303 (Minn. 2015). Here, appellant does not agree with the prison's ODRs or with the application of those ODRs to his behavior. But appellant's challenge to the ODRs exceeds the relief available to him through a habeas corpus petition. The commissioner of corrections has broad statutory authority to "prescribe reasonable conditions and rules for . . . discipline within or outside the [correction] facility." Minn. Stat. § 241.01, subd. 3a(b) (2016); *see also Jones v. N.C. Prisoners' Labor Union, Inc.*, 433 U.S. 119, 125-26, 97 S. Ct. 2532, 2537-38 (1977) (recognizing prison officials' authority to exercise discretion with respect to the custody and control of inmates). The commissioner may extend an inmate's term of imprisonment for violating disciplinary rules. Minn. Stat. § 243.52 (2016).

Here, prison officials imposed ten days of segregation for violating prison rules, which appellant served prior to seeking to file his second habeas petition. Appellant has not put forth evidence establishing that this sanction amounted to an illegal detention. *See*

Breeding v. Swenson, 60 N.W.2d 4, 7 (Minn. 1953) (placing burden of proving illegality of detention on habeas petitioner).[3] Because appellant has not asserted a claim justifying relief under the habeas corpus statute, we hold that the district court did not abuse its discretion by denying his IFP request.

III. Appellant is not entitled to an evidentiary hearing.

Appellant argues that he is entitled to an expedited evidentiary hearing. The district court shall dismiss with prejudice an action commenced by an inmate who seeks to proceed IFP, if the court determines that the action is frivolous or malicious. Minn. Stat. § 563.02, subd. 3(a). The court may dismiss an action "before or after service of process, and with or without holding a hearing." *Id.*, subd. 3(c). The district court determined that appellant's petition was frivolous, and we affirm that decision. Therefore, appellant is not entitled to an expedited evidentiary hearing.

Affirmed.

Dan D Kelly
11/15/18

[3] We reached the same conclusion in appellant's first habeas action, noting that appellant did not seek immediate release from confinement and instead sought "reversal of the prison's disciplinary decision that resulted in the segregated confinement he has already served" on similar grounds to those raised here. *Munt*, 2016 WL 7042010, at *2. We determined that his request "exceed[ed] the relief available through habeas corpus" and affirmed dismissal of the first habeas petition. *Id.* at *2-3.