

Order

Michigan Supreme Court
Lansing, Michigan

April 2, 2019

Bridget M. McCormack
Chief Justice

158873

David F. Viviano
Chief Justice Pro Tempore

JERMAINE STEVENSON,
Plaintiff-Appellant,

Stephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clemons
Megan K. Cavanagh
Justice

v

SC: 158873
COA: 344119

CHIPPEWA CORRECTIONAL FACILITY
WARDEN,
Defendant-Appellee.


On order of the Court, the application for leave to appeal the November 5, 2018 order of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the question presented should be reviewed by this Court.



a0325

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 2, 2019


Clerk

STATE OF MICHIGAN
IN THE 50TH CIRCUIT COURT FOR THE COUNTY OF CHIPPEWA

JERMAINE STEVENSON, #229119

Petitioner,

v.

File no. 17-14670-AH

MICHIGAN DEPARTMENT OF
CORRECTIONS,

Respondent.

OPINION AND ORDER DISMISSING
WRIT OF HABEAS CORPUS

At a session of said Court held
in the City of Sault Ste. Marie,
on the 7th day of June, 2017.

PRESENT: HONORABLE JAMES P. LAMBROS
Chief 50th Circuit Judge

Petitioner, Jermaine Stevenson, is an inmate under the jurisdiction of the Michigan Department of Corrections currently confined at the Chippewa Correctional Facility, Kincheloe, Michigan. Petitioner brings this writ of habeas corpus and Supplemental Petition alleging that his conviction and sentence must be set aside because the Trial Court did not obtain personal jurisdiction over petitioner. Petitioner's due process rights were violated and petitioner is being illegally detained.

On January 11, 1993, following a jury trial, petitioner Jermaine Stevenson, was convicted of first degree murder, contrary to MCL 750.316; assault with intent to murder, contrary to MCL 750.583, and possession of a firearm during the commission of a felony, contrary to MCL 750.227b-a. On January 26, 1993, petitioner was sentenced to "LIFE" without the possibility of parole for his murder conviction, concurrent terms of ten to twenty

years' incarceration for his Assault With Intent To Murder conviction, and a consecutive two-year term for the felony-firearm conviction. On August 25, 1995, Michigan's Court of Appeals affirmed Petitioner's conviction and sentence. On July 29, 1996, Michigan's Supreme Court denied petitioner's application for leave to appeal. On September 17, 2014, the Wayne Circuit Court denied Petitioner's motion for relief from judgment. On January 13, 2015, the Wayne County Circuit Court denied Petitioner's motion for reconsideration. On August 13, 2015, Michigan's Court of Appeals denied petitioner's motion for reconsideration. On August 2, 2016, Michigan's Supreme Court denied petitioner's delayed application for leave to appeal. On February 15, 2017, the Wayne County Circuit Court denied petitioner's motion for superintending control

Under the provisions of MCL 600.4307, an action for habeas corpus to inquire into the cause of detention may be brought by or on behalf of any person restrained of his liberty within this state under any pretense whatsoever, except as specified in MCL 600.4310

In relevant part, Section 4310 states:

"An action for habeas corpus to inquire into the cause of detention may not be brought by or on behalf of the following persons:

"(3) Persons convicted, or in execution, upon legal process, civil or criminal;"

This Court clearly has the power to issue writs of habeas corpus. However, review under habeas corpus is extremely limited. Its scope was noted in *People v. Price*, 23 Mich App 663; 179 NW2d 177 (1970):

"Section 4310(3) of the habeas corpus statute prohibits a habeas action by or on the behalf of 'persons convicted, or in execution, upon legal process, civil or criminal.' This statutory prohibition is generally consonant with often-repeated judicial

declarations that *habeas corpus* cannot serve as a substitute for an appeal and cannot be used to review the merits of a criminal conviction. Despite the general prohibition, *habeas corpus*, is open to a convicted person in one narrow instance, one that concerns us here, and that is where the convicting court was without jurisdiction to try the defendant for the crime in question. See *In re Joseph*, 206 Mich 659 [173 NW 358] (1919), *People v Harris*, 266 Mich 317 [253 NW 312] (1934), *In re Joslin*, 334 Mich 627 [55 NW2d 125] (1952). This exception, it must be added, is qualified by the requirement that the jurisdictional defect be radical. It must render the conviction absolutely void. *In re Palm*, 255 Mich 632 [238 NW 732] (1931), *In re Gardner*, 260 Mich 122 [244 NW 253] (1932), *In re Stone*, 295 Mich 207 [294 NW 156] (1940)."

The writ of *habeas corpus* does not function as a general appeal, nor may it serve to review or consider questions foreclosed by a previous appeal.

This Court clearly has the power to issue writs of *habeas corpus*. However, review under *habeas corpus* is extremely limited. As previously stated, *habeas corpus* cannot be used to review the merits of a criminal conviction. There is good reason for this restriction. Petitioner had a constitutional right to file an appeal of his conviction with the Court of Appeals and, ultimately, with the Supreme Court.

However, *habeas corpus* is available to a convicted person, such as petitioner, in one narrow instance, where the convicting court was without jurisdiction to try the defendant for the crime in question. This exception is qualified by the requirement that the jurisdiction defect must be radical. It must render the conviction absolutely void. *In re Stone*, 295 Mich 297; 294 NW2d 156 (1940).

The question becomes whether the personal jurisdiction

asserted by the petitioner is such that for purposes of habeas corpus review the 3rd Circuit Court or Wayne County , can be said to have been without jurisdiction to enter petitioner's convictions.

The Court concludes that the arguments propounded by petitioner did not divest the trial court of jurisdiction. Consequently, habeas corpus, after conviction and sentence is an improper method of review.

Accordingly, petitioner's application for writ of habeas corpus is dismissed.

IT IS SO ORDERED.

DATE: June 8, 2017

A handwritten signature in black ink, appearing to read 'J. P. Lambros', is written over a horizontal line.

HONORABLE JAMES P. LAMBROS, P62099
CHIEF 50TH CIRCUIT COURT JUDGE

STATE OF MICHIGAN
JUDICIAL DISTRICT
50TH JUDICIAL CIRCUIT
CHIPPEWA COUNTY PROBATE

PROOF OF MAILING

CASE NO.
17-14670-AH

Court address

319 COURT STREET, COURTHOUSE, SAULT STE. MARIE, MI 49783

Court telephone no.

(906) 635-6338

Plaintiff(s)

JERMAINE STEVENSON, #229119

v

Defendant(s)

MICHIGAN DEPARTMENT OF CORRECTIONS

☐ Juvenile In the matter of _____☐ Probate In the matter of _____On the date below I sent by first-class mail a copy of OPINION AND ORDER DISMISSING WRIT OF HABEAS CORPUS

to: List names and addresses.

JERMAINE STEVENSON, 3229119
CHIPPEWA CORRECTIONAL FACILITY
4269 WEST M-80
KINCHELOE, MI 49784

STATE OF MICHIGAN
ATTORNEY GENERAL
CORRECTIONS DIVISION
P.O. BOX 30217
LANSING, MI 48909

declare that the statements above are true to the best of my information, knowledge, and belief.

6/8/17

ate

Signature

Name (type or print)

Tina M. James OfalaTINA M. James Ofala

Court of Appeals, State of Michigan

ORDER

Jermaine Stevenson v Chippewa Correctional Facility Warden

Docket No. 344119

LC No. 17-014670-AH

Stephen L. Borrello
Presiding Judge

Peter D. O'Connell

Michael J. Kelly
Judges

The Court orders that the complaint for habeas corpus is DENIED.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

NOV - 5 2018

Date


Chief Clerk

Order

Michigan Supreme Court
Lansing, Michigan

July 29, 2019

Bridget M. McCormack,
Chief Justice

158873(29)

David F. Viviano,
Chief Justice Pro Tem

JERMAINE STEVENSON,
Plaintiff-Appellant,

Stephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
Justices

v

SC: 158873
COA: 344119

CHIPPEWA CORRECTIONAL FACILITY
WARDEN,

Defendant-Appellee.

On order of the Court, the motion for reconsideration of this Court's April 2, 2019 order is considered, and it is DENIED, because we are not persuaded that reconsideration of our previous order is warranted. MCR 7.311(G).



bl0722

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

July 29, 2019

Clerk