

In the Supreme Court of Missouri

September Session, 2019

State ex rel. Adam Lee Hamilton,

Petitioner,

No. SC97894 HABEAS CORPUS
Cole County Circuit Court No. 18AC-CC00413
Western District Court of Appeals No. WD82679

Eileen Ramey,

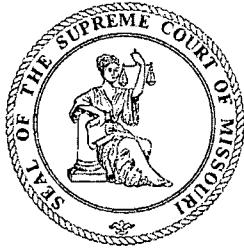
Respondent.

Now at this day, on consideration of the petition for a writ of habeas corpus herein to the said respondent, it is ordered by the Court here that the said petition be, and the same is hereby denied.

STATE OF MISSOURI-Sct.

I, BETSY AUBUCHON, Clerk of the Supreme Court of the State of Missouri, certify that the foregoing is a full, true and complete transcript of the judgment of said Supreme Court, entered of record at the September Session thereof, 2019, and on the 3rd day of September, 2019, in the above-entitled cause.

WITNESS my hand and the Seal of the Supreme Court of Missouri, at my office in the City of Jefferson, this 3rd day of September, 2019.



Betsy Aubuchon, Clerk

Deni S. Knaebel, Deputy Clerk

Supreme Court of Missouri

VS.

MANDATE

JUDGMENT



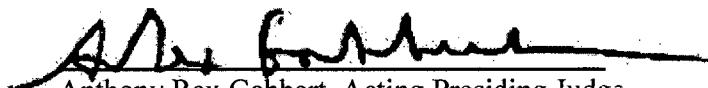
**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

In re ADAM LEE HAMILTON,)
)
 Relator,)
)
 vs.) WD82679
)
 EILEEN RAMEY, in her capacity)
 As Warden, Jefferson City)
 Correctional Center,)
)
 Respondent.)

ORDER

The Relators' Petition for writ of habeas corpus, filed on March 29, 2019, are taken up and considered. The Court being fully informed does hereby deny Relator's Petition.

Dated this 23nd day of April, 2019.



Anthony Rex Gabbert, Acting Presiding Judge
WRIT DIVISION

Witt, J. Concurs

cc: Adam Lee Hamilton, Relator Pro-se
Eric Schmitt, Esq., Attorney General's Office – State of Missouri



IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

ADAM L. HAMILTON, #501936,)
Petitioner,)
v.) Case No. 18AC-CC00413
EILEEN RAMEY,)
Respondent.)

MEMORANDUM, ORDER, AND JUDGMENT

Before this Court is a petition for habeas corpus, Respondent's response, Petitioner's reply, and the matters contained in the court file. For the reasons set forth below, this Court denies the petition.

Petitioner Adam L. Hamilton is an inmate at the Jefferson City Correctional Center in Jefferson City, Missouri. A jury convicted Hamilton of first-degree robbery, first-degree assault, and two counts of armed criminal action. On June 25, 1998, the Circuit Court of Pemiscot County sentenced Hamilton as a prior and persistent offender to fifteen years' incarceration for robbery, five years' incarceration for assault, twenty-five years' incarceration for one count of armed criminal action, and ten years' incarceration for the second count of armed criminal action. Hamilton's robbery and assault sentences are consecutive to his armed criminal action sentences. Eileen Ramey, Warden of the Jefferson City Correctional Center, is Hamilton's custodian and is the proper respondent. Rule 91.07.

Hamilton raises two grounds for relief: 1) that the circuit court had no jurisdiction over his criminal case because he was charged with stealing United States currency; and 2) that instead of Class A felony first-degree assault, he should only be guilty of Class B felony first-degree assault because there was insufficient evidence to show serious physical injury. Hamilton never raised either of these claims on direct appeal or in his motion for post-conviction relief, so they are procedurally defaulted now. Hamilton's claims are also meritless and barred by the one-year statute of limitations.

Discussion

I. Procedural Default

Because "habeas corpus is not a substitute for appeal or post-conviction proceedings," a habeas petitioner who fails to raise his or her claims on direct appeal or in a timely filed motion for post-conviction relief has procedurally defaulted those claims. *State ex rel. Simmons v. White*, 866 S.W.2d 443, 446 (Mo. 1993). Hamilton did not raise his present claims on direct appeal or during his post-conviction relief proceedings. A habeas court can review procedurally barred claims if: 1) the petitioner was sentenced beyond the maximum authorized sentence; or 2) the petitioner establishes manifest injustice because newly discovered evidence makes it more likely than not that no reasonable juror would have convicted the petitioner; or 3) the petitioner establishes an

external cause for the default and prejudice as a result. *State ex rel. Koster v. McElwain*, 340 S.W.3d 221, 244–45 (Mo. App. W.D. 2011).

Hamilton argues that his first claim should be reviewed because his claim is jurisdictional. Circuit courts clearly have jurisdiction to proceed over criminal proceedings. *J.C.W. ex rel. Webb v. Wyciskalla*, 275 S.W.3d 249, 253–54 (Mo. 2009). As will be discussed below, Hamilton’s claim that his crimes fell under the exclusive jurisdiction of federal court is meritless. And Hamilton was not sentenced beyond the maximum sentence for his crimes. Hamilton has not excused the default of his first claim.

As for his second claim, Hamilton argues that he was sentenced beyond the maximum sentence for his crime because he should be guilty of a B felony, not an A felony. But this claim is not a challenge to his sentence. Hamilton’s second claim is really an attack on the evidence that supported his conviction, which he should have raised on direct appeal. *See, e.g., Johnson v. State*, 726 S.W.2d 889 (Mo. App. S.D. 1987). Hamilton was sentenced within the range of punishment for an A felony. *See* § 558.011.1 RSMo. (1997). He has not excused the default of his second claim.¹

¹ In his reply, Hamilton alleges, for the first time, that he can excuse his default because he is actually innocent. But he provides no new evidence of innocence

II. *Merits*

Hamilton's first claim is that the circuit court did not have jurisdiction to preside over his criminal case because his crime of robbery fell within the exclusive jurisdiction of the federal government. Hamilton argues that, because he was charged with forcible stealing United States currency, only federal courts would have jurisdiction over his crime. He contends that his crime could only be prosecuted under 18 U.S.C. § 2112, which prohibits robbery of personal property belonging to the United States, or 18 U.S.C. § 2114, which prohibits assault for the purpose of robbing a person of personal property belonging to the United States.

Hamilton admitted in his original petition that he was charged and convicted of forcibly stealing "good and lawful money of the U.S. Government in the possession of Lloyd Avis." But in his reply he alleges that he only stole "food stamps and checks," not money, citing a deposition of one of the victims. The deposition that Hamilton relies on for this proposition actually

and has not shown that "no reasonable juror would have convicted him[.]" *Clay v. Dormire*, 37 S.W.3d 214, 217 (Mo. 2000); *Schlup v. Delo*, 513 U.S. 298, 315–16 (1995). Therefore, Hamilton has not shown gateway innocence to excuse his default. *See McKim v. Cassady*, 457 S.W.3d 831 (Mo. App. W.D. 2015).

demonstrates that he went out of his way to refuse stealing food stamps and checks and instead insisted on taking money. And the money which Hamilton did steal was not money belonging to the United States, it was United States currency that was in the possession of a person.

Moreover, even if Hamilton forcibly stole property belonging to the United States government, the trial court would still have jurisdiction over his case. Missouri circuit courts have jurisdiction over criminal cases under Article V, Section 14 of the Missouri Constitution, so long as the crime is not under the exclusive jurisdiction of federal courts. *State ex rel. Laughlin v. Bowersox*, 318 S.W.3d 695, 698 (Mo. 2010) (citing *Webb*, 275 S.W.3d 249, 253 n. 6 (Mo. 2009)). A person commits first-degree robbery if they “forcibly steal property” and while doing so are armed with a weapon, cause serious physical injury, use or threaten the use of a dangerous instrument, or display what appears to be a deadly weapon or dangerous instrument. § 569.020 RSMo. (1997). Hamilton’s conduct plainly fell within this definition, and he committed his crime in Pemiscot County, Missouri. Title 18 does not place this conduct within the exclusive jurisdiction of the federal courts. See 18 U.S.C. §§ 2112, 2114. Title 18 merely empowers the federal government to prosecute stealing offenses where the property that is stolen belongs to the United States government; it does not require such an offense be brought in federal court. See 18 U.S.C. §

3231 ("Nothing in this title shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof.").

Hamilton does not allege that he committed his crime on land or in a building under the exclusive jurisdiction of the United States. *Laughlin*, 318 S.W.3d at 698-99. Therefore, Hamilton's robbery offense was not within the exclusive jurisdiction of federal court. Hamilton's first claim is meritless.

Hamilton's second claim is that he should only have been convicted of Class B felony first-degree assault because there was insufficient evidence to show that he actually caused serious physical injury to his victim. Hamilton was convicted of first-degree assault for shooting his victim. He shot the victim in the back, and the victim was hospitalized for eight days afterwards. The bullet punctured the victim's colon and he was forced to wear a colostomy bag for almost five months.

The victim's survival does not negate the possibility that the gunshot could have had life threatening consequences. *State v. Kruger*, 926 S.W.2d 486, 488 (Mo. App. E.D. 1996). Here, the victim lost the normal function of his colon for five months. This evidence was more than sufficient to show serious physical injury. See *State v. Oliver*, 291 S.W.3d 324, 327 (Mo. App. S.D. 2009). Petitioner's second claim is meritless.

III. Statute of Limitations

Missouri law provides a one-year limitations period for offenders to sue any employee or entity of the Department of Corrections. § 516.145 RSMo. (2018). The applicable statute reads:

Within one year: all actions brought by an offender, as defined in section 217.010, against the department of corrections or any entity or division thereof, or any employee or former employee for an act in an official capacity, or by the omission of an official duty.

Id. The one-year statute of limitations applies to “all actions” brought by “an offender.” *Kinder v. Missouri Dep’t. of Corrections*, 43 S.W.3d 369, 373 (Mo. App. W.D. 2001). The Missouri Court of Appeals has explained that “[t]he word ‘all’ prefacing the word ‘actions’ indicates that the legislature did not intend for there to be any type of claim that an offender could bring that would be an exception to the one-year time limit in § 516.145.” *Id.* The Missouri Supreme Court has explained, in a declaratory judgment action, that the one-year statute of limitations withstands constitutional scrutiny. *Cooper v. Minor*, 16 S.W.3d 578, 582 (Mo. 2000).

The one-year statute of limitations applies to, and prohibits, this writ petition. Under the plain and ordinary language of the statutes and Rule 91, this is a civil case brought by an offender against an employee of the Department. “A habeas corpus proceeding shall be a civil action in which the

person seeking relief is petitioner and the person against whom such relief is sought is respondent.” Rule 91.01(c). Hamilton is “an offender” under Missouri law. § 217.010.12 RSMo. (2018). And Rule 91 requires petitioners to bring their cases against the Warden—an employee of the Department. Rule 91.01(c). This Court must give effect to the plain and ordinary meaning of the language of a statute. *State v. Bazell*, 497 S.W.3d 263, 266 (Mo. 2016). “If the words are clear, the Court must apply the plain meaning of the law.” *Id.* Here, the language of Section 516.145 clearly states that the one-year statute of limitations applies to Hamilton’s habeas case.

Under Missouri law, the one-year statute of limitation begins when the damage resulting from an alleged wrong is capable of ascertainment. § 516.100 RSMo. (2018). In this context, ascertainment does not require actual knowledge, but merely that a reasonable person would have been put on notice that an injury and substantial damages may have occurred....” *Powel v. Chaminade College Preparatory, Inc.*, 197 S.W.3d 576, 584 (Mo. 2006). In short, “the cause of action accrues” when “the right to sue accrues....” *State ex rel. Beisly v. Perigo*, 469 S.W.3d 434, 437 (Mo. 2015).

The statute of limitations for Hamilton’s claim began on June 17, 1999, when his conviction was affirmed on direct appeal. Hamilton did not file his

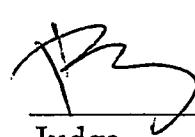
petition in this Court until October 10, 2018. Therefore, Hamilton's petition is time-barred.

The petition for habeas corpus is denied. All other pending matters are hereby overruled, dismissed, and otherwise denied.

SO ORDERED.

2.5.19

Date



Judge



STATE OF MISSOURI, }
COUNTY OF COLE, } SS
Clerk of the Circuit Court of Cole County, Missouri, hereby certify
that the above and foregoing is a full true and correct copy of

Memorandum Order and Judgment

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as fully as the same remains of record in my said office.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed
the seal of my said office this 8 day of February, 2019



Clerk
Circuit Court of Cole County, Missouri