

NOTICE

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2015 IL App (4th) 140946-U

NO. 4-14-0946

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

September 9, 2015
Carla Bender
4th District Appellate
Court, IL

In re: the Commitment of CHRISTOPHER LEE)	Appeal from
LANE, a Sexually Violent Person,)	Circuit Court of
THE PEOPLE OF THE STATE OF ILLINOIS,)	Adams County
Petitioner-Appellee,)	No. 07MR19
v.)	
CHRISTOPHER LEE LANE,)	Honorable
Respondent-Appellant.)	William O. Mays,
)	Judge Presiding.

JUSTICE HOLDER WHITE delivered the judgment of the court.
Presiding Justice Pope and Justice Steigmann concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, concluding respondent's constitutional claims are (1) procedurally forfeited by his failure to include them in his *pro se* motions; and (2) improper grounds for *habeas corpus* relief.

¶ 2 Respondent, Christopher Lee Lane, appeals from the trial court's October 2014 *sua sponte* denial of two *pro se* motions he filed regarding *habeas corpus* relief and the violation of his constitutional rights. On appeal, respondent, through appointed counsel, argues the Sexually Violent Persons Commitment Act (Act) (725 ILCS 207/1 to 99. (West 2006)) violates both his procedural and substantive due process rights. Because we conclude these claims are both forfeited by his failure to include them in his *pro se* motions and improper grounds for *habeas corpus* relief, we affirm.

¶ 3 I. BACKGROUND

¶ 4 In February 2007, the State filed a petition to have respondent committed as a sexually violent person under the Act. Attached to the petition was an initial commitment evaluation, completed by Dr. M. Bellew-Smith on February 12, 2007. Dr. Bellew-Smith's report indicated respondent met the criteria in the Diagnostic and Statistical Manual Fourth Edition, Text Revision, for paraphilia not otherwise specified, a congenital or acquired condition affecting respondent's emotional or volitional capacity and predisposing him to engage in acts of sexual violence. In addition, Dr. Bellew-Smith documented a 2001 mental status examination conducted by Dr. Frank Froman, which indicated respondent had a "Full Scale IQ" of 68, placing him in the "Mild Mental Retardation" range. Academic testing revealed respondent had reading abilities in the "Pre-K" level. Dr. Froman's examination report noted respondent "does not appear to be able to follow anything other than the simplest oral instructions. He is unable to read."

¶ 5 In September 2007, respondent, through appointed counsel, filed a written admission and waiver conceding he is a sexually violent person and that he should receive care in a secure facility. Later that month, the trial court held a hearing on respondent's admission and waiver. Aware of respondent's reading and writing difficulties, the trial judge explained as follows:

"it's very important that I make 100 percent certain that you understand what you are doing, and I'm not questioning what you are doing, it's your decision, but I just need to make sure you understand it, and if you do have some difficulty reading or writing, then that makes it more important for me to take extra time and make sure you understand everything. Okay?"

Respondent stated he understood, and the judge carefully admonished him about the nature of the proceedings and his rights under the Act. Respondent acknowledged he understood his rights, and in a written order dated September 25, 2007, the court accepted respondent's admission and waiver. Respondent was thereafter committed to the custody of the Illinois Department of Human Services.

¶ 6 In December 2008, respondent, through appointed counsel, filed a petition for postjudgment relief pursuant to section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401 (West 2008)). In the petition, respondent argued, *inter alia*, his admission and waiver was not made knowingly and voluntarily because he is mildly mentally retarded. Specifically, respondent alleged he was deprived of his liberty and right to due process under the Illinois and United States constitutions. In January 2009, the State filed a response to respondent's petition for postjudgment relief, and in April 2009, the trial court denied respondent's petition.

¶ 7 In September 2014, respondent filed a *pro se* "CONSTITUTIONAL CHALLENGE TO 725 ILCS 207/1 et seq." In the motion, respondent alleged the Act is unconstitutional because it "creates a criminal law disguised as civil commitment proceedings." In October 2014, respondent filed a second *pro se* motion entitled: "MOTION FOR LEAVE TO FILE A PETITION FOR WRIT OF HABEAS CORPUS." In this motion, respondent argued (1) he could not have knowingly and intelligently admitted he was a sexually violent person because he could not read and was mildly mentally retarded; (2) his court-appointed counsel induced him to stipulate to voluntary commitment by misadvising him he would be placed on conditional release; and (3) the trial court lacked jurisdiction to commit him because the Act provides no statutory authorization for stipulated voluntary commitment.

¶ 8 By a written order dated October 1, 2014, the trial court *sua sponte* denied both respondent's constitutional challenge and his motion for leave to file a petition for a writ of *habeas corpus*. The court noted it had reviewed the "variety of documents" respondent had filed and concluded respondent had previously filed the same motion under a different title. The court explained, "the statutes regarding sexually violent persons have been upheld by the Illinois Supreme Court and further, any issue regarding [respondent's] admission of the petition was previously addressed by the court and found to be knowingly and voluntarily given."

¶ 9 This appeal followed.

¶ 10 II. ANALYSIS

¶ 11 On appeal, respondent argues the Act is unconstitutional as applied to him. He specifically argues (1) the trial court's acceptance of his admission and waiver violated his procedural due process rights because the Act failed to provide sufficient procedural safeguards and (2) due to his limited comprehension, the provisions of the Act violate his substantive due process rights. These arguments were absent below. Accordingly, respondent's constitutional claims are forfeited, and we need not address the merits of his appeal. *Haudrich v. Howmedica, Inc.*, 169 Ill. 2d 525, 536, 662 N.E.2d 1248, 1253 (1996) ("It is well settled that issues not raised in the trial court are deemed waived and may not be raised for the first time on appeal.").

¶ 12 Nevertheless, even if we were to address respondent's claims on the merits, he has failed to demonstrate he is entitled to relief. An individual can access the court system and seek collateral relief following a direct appeal of a trial court's judgment through four vehicles: a postconviction petition, a *mandamus* complaint, a *habeas corpus* complaint, and a section 2-1401 petition. See *In re Commitment of Phillips*, 367 Ill. App. 3d 1036, 1041, 857 N.E.2d 746, 751 (2006). Given postconviction relief is available only to criminal defendants seeking

recourse regarding the violation of their constitutional rights, such relief is unavailable to respondent. Thus, respondent has available only the remaining three categories. Respondent's *pro se* "constitutional challenge" does not fall within the vehicle through which he asserts his claim. Accordingly, we find no basis to conclude the trial court's summary dismissal of this motion was improper.

¶ 13 With regard to respondent's motion for leave to file a petition for writ of *habeas corpus*, section 10-124 of the Code of Civil Procedure (735 ILCS 5/10-124 (West 2014)) specifies the seven grounds on which an individual may obtain *habeas corpus* relief. *People v. Rios*, 2013 IL App (1st) 121072, ¶ 10. These grounds consist of two general categories. *Id.* A prisoner may obtain release under *habeas corpus* only if (1) the court lacked personal or subject matter jurisdiction, or (2) there has been an occurrence subsequent to the prisoner's conviction entitling him to release. *Beacham v. Walker*, 231 Ill. 2d 51, 58, 896 N.E.2d 327, 332 (2008). An individual may not use a *habeas corpus* petition to review proceedings without one of these defects, even if the alleged error involves a denial of constitutional rights. *Id.* We review *de novo* the trial court's denial of a petition for *habeas corpus*. *Hennings v. Chandler*, 229 Ill. 2d 18, 24, 890 N.E.2d 920, 923 (2008).

¶ 14 On appeal from the trial court's denial of his motion for leave to file a petition for writ of *habeas corpus*, respondent makes no argument as to how the trial court lacked either subject matter or personal jurisdiction. Nor does he demonstrate any postcommitment occurrence entitling him to immediate release. Rather, he merely asserts the trial court erred when it failed to provide him further protections due to his limited understanding and comprehension. Therefore, respondent has failed to meet either standard for *habeas corpus* relief. Notwithstanding, even if we were to infer a jurisdictional argument from respondent's

brief, an as-applied constitutional challenge does not deprive a trial court of jurisdiction. See *People v. Morfin*, 2012 IL App (1st) 103568, ¶ 31, 981 N.E.2d 1010 ("A statute that is unconstitutional on its face—that is, where no set of circumstances exists under which it would be valid—is void *ab initio*, while a statute that is merely unconstitutional as applied is not."); see also *Beacham*, 231 Ill. 2d at 59, 896 N.E.2d at 332 ("the remedy of *habeas corpus* is not available to review errors which only render a judgment voidable and are of a nonjurisdictional nature."). Because we may affirm the trial court's decision to deny a *habeas corpus* petition on any basis supported by the record, we hold the trial court did not err in *sua sponte* denying respondent's *pro se* motion for leave to file a petition for writ of *habeas corpus*. See *Beacham*, 231 Ill. 2d at 61, 896 N.E.2d at 333.

¶ 15

III. CONCLUSION

¶ 16

For the reasons stated, we affirm the trial court's judgment.

¶ 17

Affirmed.