

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF GRAND TRAVERSE

EDWARD GUOAN,

Petitioner,

v

WARDEN SHIRLEE A. HARRY,

Respondent.

File No. 12-29128-AH
HON. PHILIP E. RODGERS, JR.

Petitioner Acting in Pro Per

pc: Respondent

DECISION AND ORDER DENYING
COMPLAINT FOR WRIT OF HABEAS CORPUS INQUIRY

The Petitioner, Edward Guoan, was convicted in Gladwin County of two counts solicitation of homicide, pursuant to MCL § 750.316.¹ Subsequently, the Petitioner was sentenced to serve 240 to 480 months with the Michigan Department of Corrections (MDOC), with a release date no earlier than November 24, 2011.

The Court of Appeals affirmed the Petitioner's conviction on March 13, 1998 and the Michigan Supreme Court of Michigan denied the Petitioner's delayed application for leave to appeal on March 30, 1999.² On January 7, 2000, the Petitioner filed an application for leave to appeal with the Court of Appeals, which was denied on August 1, 2000. Next, the Petitioner filed an application for leave to appeal with the Michigan Supreme Court and this application was denied on January 30, 2001.^{3 4}

¹Offender Tracking Information System (OTIS) indicates the Petitioner was charged under MCL 750.316c, while the appellate court indicates the Petitioner was convicted by a jury of two counts of solicitation of murder pursuant to MCL 750.157b. *People v Guoan*, unpublished decision of the Court of Appeals, entered March 13, 1998 (Docket No. 190530).

²*People v Guoan*, 459 Mich 963; 591 NW2d 35 (1999).

³*People v Guoan*, 463 Mich 963; 623 NW2d 243 (2001).

⁴The Petitioner notes that he also pursued appeals in the United States District Court of Western Michigan, the Sixth Circuit Court of Appeals and the United States Supreme Court. Additionally, the Petitioner filed an action against the Department of Corrections in Chippewa County Circuit Court. On May 3, 2007, he filed a Complaint for Writ of Habeas Corpus with the Court of Appeals, which was denied on September 10, 2007. His Motion for

The Petitioner has now submitted a Complaint for Writ of Habeas Corpus Inquiry challenging the legality of his incarceration at the Pugsley Correctional Facility in Grand Traverse County.

A prisoner's right to file a complaint for habeas corpus is guaranteed by the Michigan Constitution.⁵ The object of a writ of habeas corpus is to determine the legality of the restraint under which a person is held.⁶ Habeas corpus is the remedy when a sentence of imprisonment is wholly void for lack of authority to sentence to the institution in question.⁷ If a legal basis for detention is lacking, a judge must order the release of the detainee from confinement.⁸

Pursuant to MCL § 600.4301 *et seq*:

[A]n action for habeas corpus to inquire into the cause of detention may be brought by or on the behalf of any person restrained of his liberty within this state under any pretense whatsoever, except...persons convicted, or in execution, upon legal process, civil or criminal [and] persons committed on original process in any civil action on which they were liable to be arrested and imprisoned, unless excessive and unreasonable bail is required.⁹

Thus, habeas corpus cannot serve as a substitute for an appeal or writ of error and cannot be used to review the merits of a criminal conviction.¹⁰ MCL § 600.4310(3) prohibits a habeas action by or on behalf of “persons convicted, or in execution, upon legal process, civil or criminal,” and is not a means of testing the conditions of admittedly lawful custody.¹¹ Furthermore, under MCL § 600.4310, habeas relief is open to a convicted person only where the convicting court was without jurisdiction to try the defendant for the crime in question.¹² To qualify for habeas relief, the jurisdictional defect must be radical, rendering the conviction

Reconsideration was denied on October 25, 2007. Petitioner's application for leave to appeal the September 10, 2007 order of the Court of Appeals was denied by the Supreme Court on March 24, 2008. *Guoan v Dep't Corrections*, 480 Mich 1134; 745 NW2d 790 (2008). The Supreme Court also denied his Motion for Reconsideration on May 27, 2008. *Guoan v Sherry*, 481 Mich 881; 748 NW2d 808 (2008).

⁵*Hinton v Parole Bd*, 148 Mich App 235, 244; 383 NW2d 626 (1986).

⁶*Moses v Dep't of Corrections*, 274 Mich App 481; 736 NW2d 269 (2006).

⁷*Ex parte Allen*, 139 Mich 712; 103 NW 209 (1905).

⁸MCL § 600.4352.

⁹MCL § 600.4307; § 600.4310.

¹⁰*Cross v Dep't of Corrections*, 103 Mich App 409; 303 NW2d 218 (1981).

¹¹*Harris v Nelson*, 394 US 286; 89 S Ct 1082; 22 L Ed 2d 281 (1969); *Walker v Wainwright*, 390 US 335; 88 S Ct 962; 19 L Ed 2d 1215 (1968), rehearing denied, 390 US 1036; 88 S Ct 1420; 20 L Ed 2d 299.

¹²*People v Price*, 23 Mich App 663, 669-670; 179 NW2d 177 (1970). A radical defect in jurisdiction so as to permit review of conviction by habeas corpus contemplates an act or omission by state authorities that clearly contravenes an express legal requirement in existence at the time of the act or omission. *Id.*

absolutely void.¹³ A radical defect in jurisdiction contemplates an act or omission by state authorities that clearly contravenes an express legal requirement in existence at the time of the act or omission.¹⁴ Habeas relief may be denied in the exercise of a court's discretion where full relief may be obtained in other more appropriate proceedings.¹⁵

In this case, the Petitioner plainly and improperly seeks to challenge through his habeas corpus petition the merits of his conviction and sentence, which the habeas procedure does not entitle him to do.¹⁶

For the reasons stated herein, the Court denies the Petitioner's Complaint for Writ of Habeas Corpus Inquiry.

IT IS SO ORDERED.

HONORABLE PHILIP E. RODGERS, JR.
Circuit Court Judge

Dated: _____

¹³*Id.*

¹⁴*Id.* at 671.

¹⁵*Phillips v Warden, State Prison of Southern Mich*, 153 Mich App 557, 566; 396 NW2d 482 (1986).

¹⁶*Woods v Dep't Corrections*, unpublished opinion per curiam of the Court of Appeals, issued June 14, 2011 (Docket No. 296609).