STATE OF MINNESOTA
IN COURT OF APPEALS
A10-657

James Allen Martin, petitioner,
Appellant,

vs.

Dennis Benson, CEO of the Minnesota Sex Offender Program,
Respondent.

Filed September 28, 2010
Affirmed
Halbrooks, Judge

Carlton County District Court
File No. 09-CV-09-3066

James Allen Martin, Moose Lake, Minnesota (pro se appellant)

Lori Swanson, Attorney General, Ricardo Figueroa, Assistant Attorney General, St. Paul, Minnesota (for respondent)

Considered and decided by Toussaint, Chief Judge; Halbrooks, Judge; and Harten, Judge.*

U N P U B L I S H E D O P I N I O N

HALBROOKS, Judge

Appellant James Allen Martin challenges the district court's decision to deny his petition for writ of habeas corpus without holding an evidentiary hearing. Because

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

appellant's petition does not present a prima facie case warranting habeas relief, we affirm.

FACTS

This is appellant's third appeal to this court, challenging the constitutionality of Minnesota's civil-commitment statutes. In 2002, the district court denied Anoka County's initial attempt to civilly commit appellant as mentally ill and dangerous or as a sexually dangerous person (SDP). *In re Commitment of Martin*, 661 N.W.2d 632, 637 (Minn. App. 2003), *review denied* (Minn. Aug. 5, 2003). The county appealed, and this court remanded for a determination of whether appellant was likely to commit future acts of harmful sexual conduct. *Id.* at 641. As part of this initial appeal, this court rejected appellant's arguments that the SDP statute is unconstitutional on vagueness, due-process, double-jeopardy, and equal-protection grounds. *Id.* at 640–41. Following remand, appellant was civilly committed as an SDP in 2004. In his appeal challenging his commitment, appellant argued that the civil-commitment statutes were unconstitutional on the same grounds that he raised in his previous appeal. *In re Commitment of Martin*, No. A04-1634, 2005 WL 354088, at *5 (Minn. App. Feb. 15, 2005), *review denied* (Minn. Apr. 19, 2005). We rejected his argument, in part, on law-of-the-case grounds and, in part, because appellant failed to raise these issues to the district court. *Id.*

In 2009, appellant petitioned for writ of habeas corpus, arguing that amendments to the SDP statute enacted after his commitment have rendered the civil-commitment statutes punitive in nature. Therefore, according to appellant, the civil-commitment scheme now violates the Double Jeopardy and Ex Post Facto clauses of the United States

and Minnesota constitutions and results in the denial of due process. Appellant supported his argument by listing a number of changes to the Minnesota Sex Offender Program's (MSOP) rules and policies that he contends demonstrate the now-punitive nature of civil commitment. Appellant filed a supplemental petition in January 2010, citing additional policy changes at MSOP to support his constitutional arguments. The district court denied both petitions and declined to hold an evidentiary hearing. This appeal follows.

D E C I S I O N

"Committed persons may challenge the legality of their commitment through habeas corpus. But the only issues the district court will consider are constitutional and jurisdictional challenges." *Joelson v. O'Keefe*, 594 N.W.2d 905, 908 (Minn. App. 1999) (citations omitted), *review denied* (Minn. July 28, 1999). A petitioner must set forth sufficient facts in his petition to establish a prima facie case for habeas relief. *State ex rel. Fife v. Tahash*, 261 Minn. 270, 271, 111 N.W.2d 619, 620 (1961). A petitioner may not use habeas proceedings to obtain review of an issue previously raised, to substitute for an appeal, or to collaterally attack a judgment. *Joelson*, 594 N.W.2d at 908. When, as in this case, the facts are undisputed, we review an order denying habeas relief de novo. *Id*.

Appellant argues that Minn. Stat. § 253B.185 (2008), and Minn. Stat. §§ 246B.01-.06 (Supp. 2009), are unconstitutional on double-jeopardy, ex post facto, and due-process grounds because the nature of civil commitment is now punitive in nature as a result of these amendments. But appellant may not use habeas proceedings to obtain review of an issue previously decided. *See id.* Because appellant already challenged the

constitutionality of the SDP statute in two appeals on these same grounds, we decline to address his constitutional arguments for a third time.

But appellant also argues that recent amendments to the civil-commitment statutes have rendered the statutes unconstitutional and that Minnesota courts have yet to address the validity of these amendments. Specifically, appellant points to Minn. Stat. § 253B.185, subd. 7(a), added in 2004, which allows limits to be placed on a patient's rights if the patient is committed to MSOP. Although this language was effective in May 2004 before appellant's second appeal, he did not argue the constitutionality of this amendment at that time. Accordingly, we will address the merits of this argument.

Section 253B.185, subdivision 7(a), states that the statutory rights of those civilly committed "may be limited only as necessary to maintain a therapeutic environment or the security of the facility or to protect the safety and well-being of patients, staff, and the public." Appellant's petition also cited to amendments to Minnesota Statutes chapter 246B, effective in 2009, that he claims "officially removed the status of MSOP detainees as 'patients,' and the designation of the MSOP as a treatment program" to argue that the civil-commitment scheme is now punitive in nature and thus violative of his constitutional rights.

We disagree with appellant that these amendments have altered the nature of the civil-commitment scheme in Minnesota such that it is now punitive in nature. A secure facility may impose restrictions and conditions upon patients as "long as those conditions and restrictions do not amount to punishment." *Bell v. Wolfish*, 441 U.S. 520, 536–37, 99 S. Ct. 1861, 1873 (1979). "Loss of freedom of choice and privacy are inherent incidents

of confinement." *Id.* at 537, 99 S. Ct. at 1873. If a restriction or condition is reasonably related to a legitimate governmental objective, it does not, without more, constitute "punishment." *Id.* at 539, 99 S. Ct. at 1874.

Section 253B.185, subdivision 7(a), states that any restrictions placed on a patient's statutory rights must be for the purpose of maintaining a therapeutic environment and the safety of persons involved. These are legitimate governmental objectives. We agree with the district court's conclusion that "[t]he adoption of policies and rules by the Commissioner and the MSOP in order to provide a safe and secure treatment environment does not equate to punishment." And although appellant claims that the amendments to chapter 246B alter the nature of MSOP so that it is no longer a treatment facility, we find nothing in the new language of this chapter that supports appellant's interpretation. Because the amendments to the SDP statute do not render the civil-commitment scheme punitive in nature, appellant's argument that the statutes violate the Double Jeopardy, Ex Post Facto, and Due Process clauses of the United States and Minnesota constitutions is without merit, and the district court did not err by denying appellant's habeas petition. Finally, because appellant's petition raises only legal issues, there are no issues of fact that would require the district court to hold an evidentiary hearing. Therefore, the district court did not err by denying appellant's request for an evidentiary hearing on his habeas petition. *See Seifert v. Erickson*, 420 N.W.2d 917, 920 (Minn. App. 1988), *review denied* (Minn. May 18, 1988).

Affirmed.