

**MATHIAS, Judge**

The Elkhart Superior Court denied a petition for a writ of habeas corpus filed by Shaun L. Steele (“Steele”) in which Steele claimed that he was being unlawfully detained by Michael Books, the Sheriff of Elkhart County, the Indiana Parole Board (“the Board”), and the State of Indiana (“the State”). Steele appeals and argues that the trial court erred in denying his petition. We affirm.

### **Facts and Procedural History<sup>1</sup>**

On September 17, 2003, Steele was sentenced in Jasper Circuit Court to nine years as a result of his conviction for Class B felony burglary and Class C felony escape. On February 22, 2007, Steele was released on parole. On September 25, 2007, the Board filed a parole violation report alleging that Steele had violated the terms of his parole by failing to report and by changing his residence without authorization.<sup>2</sup>

On April 7, 2008, the State filed an information alleging that Steele committed the crime of Class D felony auto theft on August 12, 2007. See Steele v. State, No. 20A03-0907-CR-328, 916 N.E.2d 977 (Ind. Ct. App. Nov. 19, 2009) (memorandum decision). Steele was arrested on May 15, 2008 in Arizona and extradited to Indiana on May 17, 2008.

A preliminary hearing on Steele’s parole violation was held on June 6, 2008, and the final hearing was held on July 24, 2008. On July 27, 2008, the Board revoked

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<sup>1</sup> Steele’s Statement of the Facts consists of an enumerated, chronological procedural history which is very similar to his Statement of the Case, instead of the required narrative form. See Ind. Appellate Rule 46(A)(6). As noted by the State, Steele does not claim that the trial court’s findings of fact are erroneous, and we therefore draw from the trial court’s findings in setting forth the facts and procedural history of the present case.

<sup>2</sup> Steele had asked for permission to move to Michigan, but his request was denied. After Steele was found in Arizona, the State further alleged that Steele violated his parole by travelling out of state.

Steele's parole. However, on September 8, 2008, the Board ordered that the earlier revocation of Steele's parole should be vacated because Steele had not been granted a hearing within sixty days of being declared delinquent.<sup>3</sup> See Ind. Code § 11-13-3-10(a)(1) (2004) (providing generally that a parolee who is confined due to an alleged violation of parole shall be afforded a parole revocation hearing within sixty days after the parolee is made available to the Board and that, unless good cause for delay is established in the record, the revocation charge shall be dismissed if the hearing is not timely held).

On September 9, 2008, Steele was transported to Elkhart County to be held pending resolution of the auto theft charge. On September 12, 2008, the Board filed a notice of parole violation based on the charge of auto theft, but the Board waited to proceed on this parole revocation until the pending auto theft charge was adjudicated.

On January 16, 2009, Steele was found guilty of auto theft. On February 4, 2009, Steele filed a petition for a writ of habeas corpus. On May 20, 2009, Steele was sentenced to three years, with two years suspended, for his auto theft conviction.<sup>4</sup> After numerous filings by Steele, the trial court held a hearing on Steele's petition for a writ of habeas corpus on May 23, 2009. The trial court entered an order on June 9, 2009, denying Steele's petition. Steele now appeals.

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<sup>3</sup> Steele claims in his brief that this was the result of his filing a petition for a writ of habeas corpus in Putnam County challenging the legality of his parole revocation. The transcript of the hearing in the present case appears to confirm this. See Tr. p. 66, 71.

<sup>4</sup> The record does not reveal when, after his conviction for auto theft, Steele's parole was revoked.

## Discussion and Decision

Steele claims that the trial court erred in denying his petition for a writ of habeas corpus. Indiana Code section 34-25.5-1-1 (1999) provides that “[e]very person whose liberty is restrained, under any pretense whatever, may prosecute a writ of habeas corpus to inquire into the cause of the restraint, and shall be delivered from the restraint if the restraint is illegal.” The purpose of the writ of habeas corpus is to bring the person in custody before the court for inquiry into the cause of restraint, and it cannot be used to determine collateral matters not affecting the custody process. Hardley v. State, 893 N.E.2d 740, 742 (Ind. Ct. App. 2008); Hannis v. Deuth, 816 N.E.2d 872, 875 (Ind. Ct. App. 2004). A petitioner is entitled to a writ of habeas corpus if he is unlawfully incarcerated and is entitled to *immediate release* from unlawful custody. Id. We review the trial court’s habeas decision for an abuse of discretion. Hannis, 816 N.E.2d at 875. We will not reweigh evidence, and we consider only the evidence most favorable to the trial court’s judgment and the reasonable inferences to be drawn therefrom. Id.

Here, the trial court noted in its order denying Steele’s petition that, at the time of the hearing on Steele’s petition, he was being detained as a result of his conviction for auto theft. See Appellant’s App. p. 46. Nothing in Steele’s current appellate argument suggests that he challenges the trial court’s finding in this regard or challenges the validity of his conviction for auto theft.<sup>5</sup> Thus, at the time of the hearing on his petition,<sup>6</sup>

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<sup>5</sup> This court affirmed Steele’s conviction for auto theft on November 19, 2009. See Steele, 916 N.E.2d 977.

<sup>6</sup> The trial court noted that Steele had been released on bond at some point, but the bondsman returned Steele “between September 2, 2008 and October 8, 2008 wherein the bond was reset at \$3,000.00 . . .

Steele was incarcerated as a result of his conviction and sentence for auto theft, and he has not shown that his incarceration for auto theft was somehow unlawful. He has therefore failed to demonstrate how he was entitled to immediate release from unlawful detention. The law is well-settled that Steele may not use his petition as a means of determining issues collateral to the issue of whether he was subject to unlawful detention. See Hardley, 893 N.E.2d at 742; Hannis, 816 N.E.2d at 875. The trial court did not err in denying Steele's petition for a writ of habeas corpus.

Steele has not demonstrated that he was entitled to immediate release. The trial court did not err in denying Steele's petition for a writ of habeas corpus.

Affirmed.

BARNES, J., and BROWN, J., concur.

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which [Steele] never posted.” Appellant's App. p. 46. Steele does not dispute this finding by the trial court.