

NOTICE: NOT FOR OFFICIAL PUBLICATION.  
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION ONE

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DENNIS PAUL EDDY, *Appellant*,

*v.*

STATE OF ARIZONA, et al., *Appellees*.

No. 1 CA-HC 17-0006  
FILED 7-31-18

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Appeal from the Superior Court in Coconino County  
No. CR 85-11929  
The Honorable Mark R. Moran, Judge

**AFFIRMED**

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COUNSEL

Dennis Paul Eddy, *In propria persona*, Buckeye  
*Appellant*

Coconino County Attorneys' Office, Flagstaff  
By Serena Serassio  
*Counsel for Appellee*

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**MEMORANDUM DECISION**

Judge Jon W. Thompson delivered the decision of the Court, in which  
Presiding Judge Kent E. Cattani and Judge Kenton D. Jones joined.

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THOMPSON, Judge:

¶1 Dennis Paul Eddy (Eddy) appeals from the trial court's order dismissing his petition for writ of habeas corpus. For the following reasons, we affirm.

**FACTUAL AND PROCEDURAL HISTORY**

¶2 In 1986 a jury convicted Eddy of first degree burglary, aggravated assault, weapons misconduct, criminal damage, and theft of firearms for crimes he committed in 1985. The trial court sentenced Eddy to 4.5 years in prison for weapons misconduct, twelve years in prison for criminal damage, and life in prison without the possibility of release for at least twenty-five years for the remaining offenses. The court ordered the sentences to be served concurrently.

¶3 In 2017, Eddy filed a petition for writ of habeas corpus asserting that he was being held in custody in violation of his due process rights, asserting that the Arizona Department of Corrections (ADOC) had moved his parole eligibility date from January 2017 to September 2017 due to prison disciplinary matters. The trial court dismissed Eddy's habeas corpus petition, reasoning that the court lacked jurisdiction to review ADOC's determination regarding Eddy's parole eligibility. Eddy timely appealed. Subsequent to the trial court's ruling, in October 2017, Eddy received a parole hearing. The parole board denied Eddy parole.

**DISCUSSION**

¶4 "The decision whether to issue a writ of habeas corpus is entrusted to the sound discretion of the trial court, and we will not disturb the trial court's decision unless we see an abuse of that discretion." *State v. Cowles*, 207 Ariz. 8, 9, ¶ 3 (App. 2004). Eddy argues that the director of ADOC failed to certify him as parole eligible as required by Arizona Revised Statutes (A.R.S.) § 41-1604.09, and that the only remedy is his release from prison.

¶5 Section 41-1604.09 (D) provides:

The director shall certify as eligible for parole any prisoner classified within an eligible classification five months immediately prior to the prisoner's earliest parole eligibility. The inmate shall be required to remain in a parole eligible classification from the date of

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certification until the date of release on parole.  
If the inmate does not remain in a parole eligible  
classification until the date of release on parole,  
the entire parole process shall be rescinded.

“Whether or not a prisoner is eligible for release on parole or absolute discharge is not for courts to decide – it is within the control of the board of pardons and paroles . . . or the department of corrections.” *State v. Harris*, 133 Ariz. 30 (App. 1982) (citations omitted). Eddy received a parole hearing in October 2017 and was denied parole. Accordingly, his appeal from the trial court’s denial of his habeas corpus petition is moot. We affirm.

**CONCLUSION**

¶6 The decision of the trial court dismissing Eddy’s petition for writ of habeas corpus is affirmed.



AMY M. WOOD • Clerk of the Court  
FILED: JT