

In the Supreme Court of Georgia

Decided: September 12, 2011

S11A1122. HUMPHREY v. OWENS et al.

HUNSTEIN, Chief Justice.

Kevin Humphrey entered a negotiated plea of guilty on one count of child molestation in October 2003 and was sentenced to twenty years probation, with the first two years to be served in a detention center and the remainder of the term subject to various conditions. In June 2009, Humphrey filed a motion to terminate his probation pursuant to OCGA § 17-10-1 (a) (2) (under certain circumstances, probation supervision to terminate no later than two years from commencement) and the trial court's denial of this motion was affirmed on appeal. Humphrey v. State, 301 Ga. App. 877 (689 SE2d 102) (2010). In October 2010, Humphrey filed a petition for writ of mandamus seeking to compel a change from supervised to unsupervised probation; the termination of mandatory therapy sessions and polygraph tests; and the restoration of his access to computers. The trial court dismissed the petition and this appeal ensued.

The right to the extraordinary writ of mandamus exists only upon

meeting a two prong test: (1) the applicant must demonstrate a clear legal right to the relief sought, and (2) there must be no other adequate remedy. [Cits.] . . . [E]xpectation that utilization of the other remedy will result in an adverse decision does not render the other remedy inadequate.

Carnes v. Crawford, 246 Ga. 677, 678 (272 SE2d 690) (1980). See also OCGA § 9-6-20. Here, Humphrey cannot demonstrate a right to mandamus relief, as mandamus is not the proper vehicle for obtaining post-appeal review of a sentence imposed by a state court. Saleem v. Forrester, 262 Ga. 693 (424 SE2d 623) (1993). Moreover, Humphrey has access to the remedy of habeas corpus. See OCGA § 9-14-1 (c). That the utilization of such remedy may be barred by the statute of limitation, see OCGA § 9-14-42 (c) (1) (habeas action as to non-capital felony conviction final as of July 1, 2004 must be filed by July 1, 2008), does not render it inadequate. Carnes, supra at 678. For these reasons, the trial court did not err by dismissing Humphrey's petition for mandamus.

Judgment affirmed. All the Justices concur.