MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Aaron Isby,

Appellant-Petitioner,

v.

Richard Brown and Robert Carter, Jr.,

Appellees-Respondents.

December 18, 2023

Court of Appeals Case No. 23A-MI-76

Appeal from the Miami Circuit Court

The Honorable Timothy P. Spahr, Judge

Trial Court Cause No. 52C01-2209-MI-720

Memorandum Decision by Judge Foley
Chief Judge Altice and Judge May concur.

Foley, Judge.

[1] Aaron Isby ("Isby") appeals the denial of his petition for writ of habeas corpus, presenting the following consolidated and restated issues:

I. Whether Isby was denied due process because of discovery issues; and

II. Whether the trial court properly denied the petition for writ of habeas corpus because Isby's claims for immediate release are premised on the application of credit time.

[2] We affirm.

Facts and Procedural History

[3] Isby has been incarcerated in the Indiana Department of Correction since 1988, when he began serving a thirty-year sentence for Robbery. While Isby was incarcerated, he was convicted of additional offenses in 1992. For those new offenses, Isby received an aggregate sentence of forty years and six months.

[4] In September 2022, Isby filed a pro se petition for writ of habeas corpus. Isby alleged he was entitled to credit time that, if properly awarded, would satisfy his aggregate sentence for the 1992 convictions. Isby (who in some documents is referred to as Aaron Israel) named certain government officials as the respondents. Throughout, we refer to the respondents as "the State."

[5] The State moved to dismiss, asserting that (1) the petition should be regarded as an unauthorized successive petition for post-conviction relief rather than a habeas petition and (2) to the extent Isby was challenging prison disciplinary

matters related to the award of credit time, the trial court lacked the authority to review those prison disciplinary matters. Isby responded to the State's motion.

[6] In December 2022, the trial court held a hearing on the motion to dismiss and the habeas petition. At the hearing, Isby asserted he was properly petitioning for habeas relief and that "nowhere" in his petition did he "challenge[] any particular disciplinary action." Tr. Vol. 2 p. 9. Isby clarified the scope of his petition, stating: "[T]he issue primarily is that . . . the credit time . . . that's owed to me is . . . being denied to me . . . [and] if I receive that credit time, I'm entitled to immediate release." *Id.* at 9–10. Isby asserted that he had "served over 11,033 days"—i.e., over thirty years—"since [he was] sentenced in 1992," and that based on the "good time credit system" that "applie[d] to him," he had "actually served [his] time" and was "still being held illegally." *Id.* at 10.

[7] As the trial court began to conclude the hearing, Isby asserted that there was "one more thing [he] need[ed] to point out," which was that the State "never even responded" to his discovery requests. *Id.* at 26. Summarizing the pertinent Indiana Rules of Trial Procedure, the trial court noted that, "if there was some problem with discovery," there needed to be "informal efforts made to address the discovery issue" and, if those efforts were unsuccessful, Isby needed to file "a motion to compel . . . sufficiently in advance of th[e] hearing[.]" *Id.* at 27. The trial court pointed out that Isby was "able to present" a series of documents to support his petition and that the trial court had been "carefully considering them." *Id.* Isby responded: "Yeah. Okay. I just . . .

wanted to point that out . . . [and] make sure I made note of that because I realized that they never did submit anything that I asked them for[.]" *Id.* at 28.

[8] The trial court later issued an order in which it (1) addressed the State's motion to dismiss and (2) ultimately denied the petition for writ of habeas corpus. As to the motion to dismiss, the trial court determined that Isby was properly pursuing habeas relief rather than post-conviction relief in part because he was "not challenging the validity of his conviction or sentence" but instead taking "the position that . . . he has finished serving all of his sentences and therefore should be released from incarceration." Appellant's App. Vol. 2 at 14. As to the State's contention that the trial court could not review prison disciplinary matters, the trial court agreed that "the enforcement of [prison] disciplinary sanctions is not subject to judicial review," *id.* at 14–15, briefly noting that "it does not have subject matter jurisdiction to conduct a judicial review of such matters." *Id.* at 15. The trial court went on to address the merits of Isby's habeas petition, identifying "a host of problems" with "claims that he is entitled to immediate release" due to the misapplication of credit time. *Id.* After discussing "a few examples" of issues with Isby's credit time arguments, *id.*, the court "concluded that [Isby] . . . is not entitled to immediate release." *Id.* at 16. Isby now appeals, pro se, arguing the court erred in disposing of the petition.

Discussion and Decision

[9] Article 1, Section 27 of the Indiana Constitution recognizes "[t]he privilege of the writ of habeas corpus," which offers incarcerated persons a procedure to test

the legality of their "imprisonment or detention[.]" *Habeas Corpus*, Black's Law Dictionary (11th ed. 2019). Our legislature may "reasonably regulat[e]" the "functioning" of these proceedings, *Fry v. State*, 990 N.E.2d 429, 437 (Ind. 2013), and has done so in Indiana Code Article 34-25.5. By statute, "[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." Ind. Code § 34-25.5-1-1. "The purpose of a writ of habeas corpus is to determine the lawfulness of custody or detention of the defendant[.]" *Hardley v. State*, 893 N.E.2d 740, 742 (Ind. Ct. App. 2008). Notably, however, our habeas proceedings "may not be used to determine collateral matters not affecting the custody process." *Id.*

[10] "We review the trial court's habeas decision for an abuse of discretion." *Id.* In doing so, we do not reweigh the evidence and consider "only that evidence most favorable to the judgment and reasonable inferences drawn therefrom." *Id.* The trial court abuses its discretion if its decision is "clearly against the logic and effect of the facts and circumstances before the court or if the court has misinterpreted the law." *Bruder v. Seneca Mortg. Servs., LLC*, 188 N.E.3d 469, 471 (Ind. 2022). To the extent the decision turns on a question of law, our review is de novo. *Id.* Furthermore, in appeals from the denial of habeas relief, "[w]e may affirm a trial court's judgment on any basis sustainable by the record, even though not on a theory used by the trial court." *Willet v. State*, 151 N.E.3d 1274, 1278 (Ind. Ct. App. 2020) (citing *Benham v. State*, 637 N.E.2d 133, 138 (Ind. 1994)).

I. Discovery Issues

[11] Isby argues he was deprived of due process because the trial court disposed of the habeas petition before the State had provided discovery. He claims "[t]he record that the trial court relied on to reach [its] decision to deny Isby habeas relief on December 17, 2022, was not a complete and accurate record" in that "the record had a 2014 date and it did not show the entire picture to enable the trial court to reach a fair and just decision." Appellant's Br. pp. 41–42.

[12] Indiana Trial Rule 26 governs discovery matters, generally allowing parties to "obtain discovery regarding any matter, not privileged, which is relevant to the subject[] matter involved in the pending action[.]" Ind. Trial Rule 26(B)(1). Trial Rule 37 offers procedures to compel discovery. However, under Trial Rule 26(F)(1), "[b]efore any party files any motion or request to compel discovery pursuant to Rule 37" or any "motion which seeks to enforce, modify, or limit discovery," the party shall "[m]ake a reasonable effort to reach agreement with the opposing party concerning the matter which is the subject of the motion or request[.]" Further, Trial Rule 26(F)(2) requires the party to "[i]nclude in the motion or request a statement showing that . . . a reasonable effort" was made "to reach agreement" regarding the discovery dispute. Subsection (F) specifies that "[t]he court may deny a discovery motion filed by a party who has failed to comply with the requirements of this subsection."

[13] Here, there is no indication Isby attempted to resolve any discovery dispute with the State prior to alerting the trial court, nor did Isby file a compliant motion to compel discovery. Under the circumstances, the trial court was well

within its discretion to decline to provide any relief for the alleged discovery dispute. *See generally* T.R. 26(F) ("The court may deny a discovery motion filed by a party who has failed to comply with the requirements of this subsection.").

[14] Furthermore, although Isby claims on appeal that he was deprived of due process because there was a limited record before the trial court, Isby fails to provide cogent reasoning supporting this contention. He directs us to *Hale v. State*, 54 N.E.3d 355 (Ind. 2016) and *Dillard v. State*, 274 N.E.2d 387 (Ind. 1971). Yet, both of these cases involve the denial of pre-trial discovery motions filed by criminal defendants. Isby has failed to explain how *Hale* and *Dillard* apply under the circumstances, and he has therefore waived any claim premised on these cases. *See* Ind. Appellate Rule 46(A)(8)(a) (directing that the argument "must contain the contentions of the appellant on the issues presented, supported by cogent reasoning"); *Isom v. State*, 170 N.E.3d 623, 653 (Ind. 2021) (identifying waiver due to noncompliance with Appellate Rule 46(A)(8)(a)).

II. Credit Time

[15] Isby argues he is entitled to credit time that, if properly applied, results in the satisfaction of his criminal sentences.[1] We addressed a similar habeas claim in *Willet*, where the "crux" of the argument was that, "with his executed time and earned credit time," the petitioner had satisfied his sentence and was therefore

[1] At one point, Isby suggests that the trial court improperly dismissed the habeas petition due to a lack of subject matter jurisdiction. Yet, the court merely stated that it could not review prison disciplinary matters, and Isby asserted below—and reasserts on appeal—that he is not challenging any prison disciplinary matter.

"entitled to be released immediately." 151 N.E.3d at 1279. We affirmed the denial of habeas relief, pointing out that—as the Indiana Supreme Court previously explained—"[c]redit time is a statutory reward for a lack of conduct that is in violation of institutional rules. It is earned toward *release on parole* for felons . . . and does not diminish the fixed term or affect the date on which a felony offender will be discharged." *Id.* (quoting *Boyd v. Broglin*, 519 N.E.2d 541, 542 (Ind. 1988)); *see also Miller v. Walker*, 655 N.E.2d 47, 48 n.3 (Ind. 1995) (noting that credit time "does *not* reduce the sentence itself").

[16] In *Willet*, we outlined that habeas relief is available only if, irrespective of credit time, the petitioner has been incarcerated for the entire fixed term of his sentence. *See Willet*, 151 N.E.3d at 1279 (determining the petitioner was not entitled to habeas relief because, regardless of "791 days of jail time credit," (1) the petitioner "was sentenced to serve fifteen years"; (2) he "effectively began his sentence on January 23, 2008"; (3) "fifteen years from that date [was] January 23, 2023"; and (4) that date had not yet passed). We emphasized that "credit time simply shortens a fixed executed sentence for release *to* parole, it does not reduce . . . [the] sentence itself[.]" *Id.* And we explained that the trial court properly denied the habeas petition because "[t]he record reveal[ed] on its face that [the petitioner] was not entitled to immediate release because his sentence ha[d] not expired." *Id.*

[17] At one point in his briefing, Isby asserts that he "commenced serving his instant 40 year[,] 6 months sentence on August 16, 2003." Appellant's Br. pp. 16–17. Elsewhere, Isby asserts that his "maximum release date" is in 2029 "if he had to

serve his entire instant . . . sentence without gain[ing] credit time." *Id.* at 15. Based on the timelines Isby has provided—and even assuming for the sake of argument that Isby began serving the instant sentence in 1992—Isby is not entitled to habeas relief because he has not been incarcerated for a term of 40.5 years. In short, the claim for immediate release is premised on the application of credit time. But, as we explained in *Willet*, we do not consider credit time when reviewing whether a person is entitled to relief on a petition for writ of habeas corpus. Adhering to *Willet*, we must affirm the denial of Isby's petition.

Conclusion

[18] Isby is not entitled to relief for discovery issues because (1) he failed to avail himself of procedures set forth in our trial rules and (2) did not provide cogent reasoning supporting a discovery-related due process claim. Furthermore, Isby did not demonstrate that the trial court erred in denying the habeas petition.

[19] Affirmed.

Altice, C.J., and May, J. concur.