

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE

Assigned on Briefs September 26, 2023

STATE OF TENNESSEE v. CHRISTOPHER A. WILLIAMS

**Appeal from the Criminal Court for Sullivan County
No. S46071 James F. Goodwin, Jr., Judge**

No. E2023-00332-CCA-R3-CD

FILED

OCT 13 2023

Clerk of the Appellate Courts
Rec'd by _____

Defendant, Christopher A. Williams, while on parole under a sentence from the Sullivan County Criminal Court, was convicted in federal court for conspiracy to distribute and possess with intent to distribute 28 grams or more of cocaine base. The State filed a detainer based on Defendant's violation of parole. Defendant filed a pro se "Motion to Terminate Parole as Unsatisfactorily Completed/Alternatively Revoke Parole and Impose Sentence in Absentia to Run Concurrent with Federal Supervise Release," which the trial court denied, finding that the Interstate Agreement on Detainers ("IAD") "does not apply to probation violations." Defendant filed a pro se motion to reconsider, asserting that he was denied a due process hearing on his parole revocation. The trial court denied the motion, and Defendant appeals. We dismiss Defendant's appeal for lack of jurisdiction.

Tenn. R. App. P. 3 Appeal as of Right; Appeal Dismissed

TIMOTHY L. EASTER, J., delivered the opinion of the court, in which ROBERT H. MONTGOMERY, JR., and JILL BARTEE AYERS, JJ., joined.

Christopher A. Williams, Welch, West Virginia, Pro Se.

Jonathan Skrmetti, Attorney General and Reporter; Katherine C. Redding, Senior Assistant Attorney General; and Barry P. Staubus, District Attorney General, for the appellee, State of Tennessee.

OPINION

Factual and Procedural Background

On January 7, 2005, Defendant pleaded guilty in the Sullivan County Criminal Court to three counts of sale or delivery of 0.5 grams or more of cocaine, two counts of sale or delivery of less than 0.5 grams of cocaine, and one count of possession of 0.5 grams or more of cocaine with intent to sell and deliver. Defendant received a total effective sentence of 17 years in confinement with a 35-percent release eligibility.

On September 25, 2017, Defendant was convicted in the United States District Court for the Eastern District of Tennessee for conspiracy to distribute and to possess with intent to distribute 28 grams or more of cocaine base. Defendant was sentenced to serve ten years in confinement followed by five years on supervision. On August 1, 2018, the State filed a detainer warrant based on Defendant's violation of parole.

On December 28, 2022, Defendant filed a motion to lift the State's detainer and either terminate his parole as unsatisfactorily completed or revoke his parole and impose a sentence in absentia to run concurrent with his federal supervised release. Defendant claimed that the State's detainer was depriving him of the ability to take advantage of rehabilitative programs that would reduce his federal sentence. He further claimed that the State had known his whereabouts since 2016, but had failed to provide him with a "mitigating hearing."

On January 19, 2023, the trial court denied Defendant's motion, finding that the Interstate Agreement on Detainers ("IAD") does not apply to probation violations.

On February 13, 2023, Defendant filed a motion to reconsider, agreeing that the IAD applies only to criminal charges but asserting that the United States Supreme Court's holding in *Morrissey v. Brewer*, 408 U.S. 471 (1972), requires a due process hearing to ensure that a parole violation is based on verified facts rather than the premise of a criminal conviction alone. The trial court denied Defendant's motion, and Defendant filed a timely notice of appeal.

Analysis

Defendant contends that the trial court erred in denying his motion to terminate parole after the State placed a detainer against him without first conducting a due process parole violation hearing. The State responds that no right of appeal lies from Defendant's motion under Rule 3 of the Tennessee Rules of Appellate Procedure and that, even if this

Court had jurisdiction, Defendant's claim is meritless. We conclude that we are without jurisdiction to hear this appeal.

Pursuant to Rule 3(b) of the Tennessee Rules of Appellate Procedure, a criminal defendant's ability to appeal as of right is limited to:

any judgment of conviction entered by a trial court from which an appeal lies to the Supreme Court or Court of Criminal Appeals: (1) on a plea of not guilty; and (2) on a plea of guilty or nolo contendere, if the defendant entered into a plea agreement but explicitly reserved the right to appeal a certified question of law dispositive of the case pursuant to and in compliance with the requirements of Rule 37(b)(2)(i) or (iv) of the Tennessee Rules of Criminal Procedure, or if the defendant seeks review of the sentence and there was no plea agreement concerning the sentence, or if the issues presented for review were not waived as a matter of law by the plea of guilty or nolo contendere and if such issues are apparent from the record of the proceedings already had. The defendant may also appeal as of right from an order denying or revoking probation, an order or judgment entered pursuant to Rule 36 or 36.1, Tennessee Rules of Criminal Procedure, from a final judgment in a criminal contempt, habeas corpus, extradition, or post-conviction proceeding, from a final order on a request for expunction, and from the denial of a motion to withdraw a guilty plea under Tennessee Rules of Criminal Procedure 32(f).

Tenn. R. App. P. 3(b).

In *State v. Adler*, 92 S.W.3d 397, 401 (Tenn. 2002), our supreme court examined whether parties in criminal cases could appeal as of right issues that were not specifically enumerated in Rule 3(b) or (c). Applying the Latin maxim of "expressio unius est exclusio alterius, meaning 'the expression of one thing implies the exclusion of all things not mentioned[,]'" the court concluded that a defendant does not have an appeal as of right to challenge a trial court's decision on a matter not specifically enumerated in Rule 3(b). *Id.* at 400 (quoting *Limbaugh v. Coffee Med. Ctr.*, 59 S.W.3d 73, 84 (Tenn. 2001)).

Rule 3(b) does not specifically enumerate that a defendant may appeal as of right a denial of a motion to terminate parole as unsatisfactorily completed or revoke parole and impose a sentence in absentia. Thus, Defendant does not have an appeal as of right to challenge the trial court's decision in this case.

CONCLUSION

Defendant has no right of appeal from the trial court's order denying his motion to terminate parole as unsatisfactorily completed or revoke parole and impose a sentence in absentia. Accordingly, the appeal is dismissed.

TIMOTHY L. EASTER, JUDGE