

IN THE UTAH COURT OF APPEALS

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Brian Maguire,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Petitioner and Appellant,)	
)	Case No. 20090553-CA
v.)	
)	F I L E D
Board of Pardons and Parole,)	(November 27, 2009)
)	
Respondent and Appellee.)	2009 UT App 350

Third District, Salt Lake Department, 090908017
The Honorable Robert K. Hilder

Attorneys: Brian Maguire, Gunnison, Appellant Pro Se

Before Judges Greenwood, Orme, and Thorne.

PER CURIAM:

Brian Maguire appeals the district court's order dismissing his petition for a writ of mandamus. This matter is before the court on its own motion for summary disposition on the basis that the issues presented are so insubstantial as to not merit further proceedings.

Maguire argues that the district court erred by misapprehending the petition he filed under rule 65B(d)(2)(D) as a petition under rule 65C of the Utah Rules of Civil Procedure. However, in responding to Maguire's petition the district court complied with the Utah Supreme Court's transfer order that expressly directed the district court to consider the petition as a post-conviction petition under rule 65C(b). The district court complied with the supreme court's order and determined that Maguire was not entitled to relief under rule 65C for various reasons, including that the Post-Conviction Remedies Act does not apply to "actions taken by the Board of Pardons and Parole," Utah Code Ann. § 78B-9-102(2)(c) (2008). Because the petition was directed at the Board of Pardons and Parole and because the supreme court ordered that the petition be construed as a petition for post-conviction relief, the district court correctly

dismissed the case, and this court cannot reach the issues underlying Maguire's petition in this appeal.

Affirmed.

Pamela T. Greenwood,
Presiding Judge

Gregory K. Orme, Judge

William A. Thorne Jr., Judge