

IN THE UTAH COURT OF APPEALS

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Edward Oniskor,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Petitioner and Appellant,	)	
	)	Case No. 20060144-CA
v.	)	
	)	
Mike Sibbett, et al.,	)	F I L E D
	)	(July 7, 2006)
	)	
Respondents and Appellees.	)	<span style="border: 1px solid black; padding: 2px;">2006 UT App 283</span>

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Third District, Salt Lake Department, 050922290  
The Honorable Anthony B. Quinn

Attorneys: Edward Oniskor, Draper, Appellant Pro Se

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Before Judges Greenwood, Davis, and Thorne.

PER CURIAM:

Appellant Edward Oniskor appeals the dismissal of his petition for extraordinary relief. This case is before the court on a sua sponte motion for summary disposition. After obtaining an extension of the time to respond, Oniskor failed to file any response.

Oniskor filed a petition under rule 65B(d) of the Utah Rules of Civil Procedure challenging Utah's indeterminate sentencing scheme as "illegal because it is grossly disproportionate to the time prisoners in other states do in prison for the same type of crimes and disproportionate inside itself" and because it violates his rights to due process and equal protection. Utah R. Civ. P. 65B(d). Oniskor also claimed that the Utah Board of Pardons and Parole discriminated against him in setting a parole date because he is mentally ill. The district court concluded:

Because the petition fails to provide the requisite factual support for Petitioner's discrimination claim, and because there is no support in the law for the proposition that

by simply enforcing the sentence imposed by the trial court the board violates Petitioner's constitutional rights, the petition is frivolous on its face.

The substantive parole decisions of the Board are not subject to judicial review. See Utah Code Ann. § 77-27-5(3) (Supp. 2005) (providing that the Board's decisions are final and are not subject to judicial review). Accordingly, courts do not "engage in a substantive review of the Board's decision." Padilla v. Utah Bd. of Pardons, 947 P.2d 664, 669 (Utah 1997); see also Preece v. House, 886 P.2d 508, 512 (Utah 1994) (stating that judicial review of Board of Pardons' decisions is limited to review of the process by which the Board undertakes its function).

To the extent that Oniskor claims that he has been discriminated against based upon mental illness, he made no factual allegations in support of the claim. Because the substance of the Board's decisions is not subject to judicial review and Oniskor did not make any allegation that the Board violated his rights to procedural due process, the district court correctly concluded that the petition was frivolous on its face.

The Utah Supreme Court rejected a challenge to the constitutionality of Utah's indeterminate sentencing scheme under which the Board determines parole dates within a range. See Padilla, 947 P.2d at 669. The district court did not err in ruling that Oniskor's claim that the sentencing scheme is "illegal" is frivolous on its face.

We affirm the dismissal of the petition.

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Pamela T. Greenwood,  
Associate Presiding Judge

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James Z. Davis, Judge

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William A. Thorne Jr., Judge