

IN THE UTAH COURT OF APPEALS

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Robert B. Pedockie,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Petitioner and Appellant,)		
)	Case No. 20091078-CA	
v.)		
)	F I L E D	
Board of Pardons,)	(March 18, 2010)	
)		
Respondent and Appellee.)	<table border="1"><tr><td>2010 UT App 67</td></tr></table>	2010 UT App 67
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Third District, Salt Lake Department, 090908718
The Honorable Tyrone E. Medley

Attorneys: Robert B. Pedockie, Draper, Appellant Pro Se
Mark L. Shurtleff, Annina M. Mitchell, and Brent A.
Burnett, Salt Lake City, for Appellee

Before Judges Davis, McHugh, and Bench.¹

PER CURIAM:

Robert B. Pedockie appeals the district court's dismissal of his petition for extraordinary relief. This matter is before the court on a motion for summary disposition. We affirm.

Rule 65B of the Utah Rules of Civil Procedure requires a court to dismiss claims in a petition for extraordinary relief when "the legality of the restraint has already been adjudicated in a prior proceeding" or the claims appear frivolous on their face. See Utah R. Civ. P. 65B(b)(5). Utah Code section 77-27-5(3) provides that the Board of Pardon's (the Board) decisions involving parole or terminations of sentence are final and are not subject to judicial review. See Utah Code Ann. § 77-27-5(3) (Supp. 2009).

However, judicial review is allowed to ensure that procedural due process was not denied. See Labrum v. Utah State Bd. of Pardons, 870 P.2d 902, 909 (Utah 1993). Procedural due process requires that the Board provide an inmate with adequate

1. The Honorable Russell W. Bench, Senior Judge, sat by special assignment pursuant to Utah Code section 78A-3-103(2) (2008) and rule 11-201(6) of the Utah Rules of Judicial Administration.

notice to prepare for a parole hearing, an opportunity to be heard, and "copies or a summary of the information in the Board's file upon which the Board will rely in deciding whether to grant parole." Peterson v. Utah Bd. of Pardons, 931 P.2d 147, 150 (Utah Ct. App. 1997).

The Utah Supreme Court has clarified that if a petitioner demonstrates an abuse of discretion in the Board's process, a court may "weigh the various interests implicated by the proceeding and the possible consequences of judicial action or inaction before deciding whether to exercise its discretion by granting extraordinary relief." State v. Barrett, 2005 UT 88, ¶ 25, 127 P.3d 682. Even if a petitioner demonstrates an abuse of discretion, a petitioner is not automatically entitled to judicial intervention. See id. ¶ 24.

On appeal, Pedockie challenges the Board's substantive decision. He asserts that the Board's decision improperly incorporated several inappropriate factors, among them, the sex offender matrix. However, Pedockie's assertions are not challenges to procedural due process. Pedockie does not assert that he was deprived proper notice, an opportunity to be heard, or not provided with a summary of the information upon which the Board's decision was based. Because Pedockie seeks to challenge the Board's substantive decision, this matter is not subject to judicial review. See Utah Code Ann. § 77-27-5(3). Thus, we cannot say that the district court erred by dismissing Pedockie's petition for extraordinary relief.²

Affirmed.

James Z. Davis,
Presiding Judge

Carolyn B. McHugh,
Associate Presiding Judge

Russell W. Bench,
Senior Judge

2. To the extent that Pedockie raises other issues not addressed above, we determine that such issues lack merit, and we decline to address them further. See State v. Carter, 888 P.2d 629, 648 (Utah 1994).