

IN THE UTAH COURT OF APPEALS

-----ooOoo-----

Robert D. Straley,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Petitioner and Appellant,)		
)	Case No. 20060313-CA	
v.)		
)	F I L E D	
Utah Board of Pardons,)	(August 31, 2006)	
)		
Respondent and Appellee.)	<table border="1"><tr><td>2006 UT App 363</td></tr></table>	2006 UT App 363
2006 UT App 363			

Third District, Salt Lake City Department, 050902431
The Honorable Tyrone E. Medley

Attorneys: Robert D. Straley, Appellant Pro Se
Mark L. Shurtleff and Nancy L. Kemp, Salt Lake City,
for Appellee

Before Judges Bench, Billings, and Thorne.

PER CURIAM:

Robert D. Straley appeals the district court's dismissal of his petition for extraordinary relief. We affirm.

We review a district court's decision in a rule 65B(d) extraordinary writ case for abuse of discretion. See State v. Barrett, 2005 UT 88, ¶26, 127 P.3d 682. "[A] mistake of law 'may constitute an abuse of discretion.'" Id. (citation omitted). Straley alleges that Utah's indeterminate sentencing scheme is unconstitutional. See Utah Code Ann. § 77-18-4 (2003). More particularly, he alleges that it violates principles of due process and equal protection, as well as the Sixth and Eighth Amendments to the federal Constitution.

Utah courts have repeatedly concluded that Utah's indeterminate sentencing scheme does not violate either the federal Constitution or the state Constitution. See Padilla v. Board of Pardons, 947 P.2d 664, 669 (Utah 1997) (rejecting argument that sentencing scheme violates separation of powers clause); Monson v. Carver, 928 P.2d 1017, 1023 (Utah 1996) (rejecting claim that Utah's sentencing scheme violates constitution because it is mentally cruel to prisoners). In his

petition, Straley failed to address these and similar cases that conclude that the indeterminate sentencing scheme is constitutional. Further, he failed to adequately advance any new theories concerning the constitutionality of the scheme. Accordingly, the district court did not abuse its discretion in dismissing Straley's petition.

Affirmed.

Russell W. Bench,
Presiding Judge

Judith M. Billings, Judge

William A. Thorne Jr., Judge