

IN THE UTAH COURT OF APPEALS

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Albert Dennis Zampedri,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Petitioner and Appellant,)		
)	Case No. 20100437-CA	
v.)		
)		
State of Utah; and Alfred)	F I L E D	
Bigelow, Warden,)	(August 19, 2010)	
)		
Respondents and Appellees.)	<table border="1"><tr><td>2010 UT App 233</td></tr></table>	2010 UT App 233
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Second District, Ogden Department, 090908419
The Honorable Michael D. Lyon

Attorneys: Albert Dennis Zampedri, Gunnison, Appellant Pro Se

Before Judges McHugh, Thorne, and Roth.

PER CURIAM:

Albert Dennis Zampedri appeals the trial court's dismissal of his fourth petition for postconviction relief. This is before the court on its own motion for summary disposition based on the lack of a substantial question for review.

Zampedri was convicted after a jury trial. On direct appeal, Zampedri asserted that he received ineffective assistance of counsel and that the jury instructions were incorrect regarding the mens rea for the crimes charged. See State v. Zampedri, 2004 UT App 348U (mem.). He also asserted that the evidence was insufficient to prove the required mens rea. Zampedri's conviction was affirmed on direct appeal in 2004. See id.

Since that time, Zampedri has filed multiple petitions for postconviction relief. In his current petition, he asserts again that he received ineffective assistance of counsel and that the jury instructions were incorrect. These claims were addressed on direct appeal. Accordingly, Zampedri is not eligible for relief on these claims in a postconviction proceeding. See Utah Code Ann. § 78B-9-106 (2008) (precluding relief on any ground that was raised or could have been raised on direct appeal).

Similarly, by his own admission in his docketing statement, the remainder of Zampedri's claims have been previously raised in earlier petitions, thus barring relief. See id. (precluding relief on any ground that was raised or could have been raised in a prior petition for relief). These claims included various conspiracy and misconduct allegations. They have been addressed in prior petitions that have been dismissed at the trial level. Those dismissals have also been affirmed on appeal. See Zampedri v. Bigelow, 2009 UT App 302U (mem.) (per curiam); Zampedri v. Bigelow, 2008 UT App 178U (mem.) (per curiam). Accordingly, these claims have been finally determined and cannot form the basis for any additional petition for relief.

Furthermore, the claims asserted by Zampedri are frivolous. A claim is frivolous when, "based solely on the allegations contained in the pleadings and attachments, it appears that the facts alleged do not support a claim for relief as a matter of law." Utah R. Civ. P. 65(h)(2)(A). Zampedri asserts that various people engaged in misconduct and conspiracy against him. His conclusory allegations are insufficient to support any legal claim for relief. Most of the allegations are irrelevant to the conduct of the trial and are largely inadmissible conjecture. Accordingly, the trial court did not err in dismissing Zampedri's petition as barred and frivolous.

Affirmed.

Carolyn B. McHugh,
Associate Presiding Judge

William A. Thorne Jr., Judge

Stephen L. Roth, Judge