

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

James E. Manley,
Appellant-Petitioner,

v.

Mark Sevier,
Appellee-Respondent,

April 29, 2022

Court of Appeals Case No.
21A-MI-2486

Appeal from the Henry Circuit
Court

The Honorable Gail M. Dues,
Special Judge

Trial Court Cause No.
33C02-2107-MI-68

Robb, Judge.

Case Summary and Issue

- [1] James Manley appeals the trial court’s denial of his Petition for Writ of Habeas Corpus. Manley raises a single issue for our review, which we restate as whether the trial court abused its discretion by denying Manley’s petition. Concluding that the trial court did not abuse its discretion, we affirm.

Facts and Procedural History

- [2] In 1997, Manley was convicted of two counts of child molesting as Class B felonies and two counts of child molesting as Class A felonies. The trial court sentenced Manley to fifteen years for each of the Class B felonies, to be served concurrently, and forty years for each of the Class A felonies, to be served concurrently with each other but consecutively to the Class B felony sentences. Manley’s sentence was to be executed in the Indiana Department of Correction (“DOC”).
- [3] On July 7, 2021, Manley filed a Petition for Writ of Habeas Corpus while still incarcerated.¹ Manley argued that he should have been released on parole in 2015 and had been impermissibly imprisoned for six years. Manley sought to be “immediately discharge[d]” from prison.² Appellant’s Appendix, Volume 2 at

¹ Manley filed his petition against Mark Sevier, warden of the New Castle Correctional Facility.

² On December 25, 2021, Manley was released on parole.

10. On October 13, 2021, the trial court denied Manley’s petition. Manley now appeals. Additional facts will be provided as necessary.

Discussion and Decision

- [4] Manley argues that the trial court abused its discretion by denying his Petition for Writ of Habeas Corpus. A defendant is entitled to a writ of habeas corpus if he is unlawfully incarcerated and is entitled to immediate release. *McKay v. State*, 714 N.E.2d 1182, 1186 (Ind. Ct. App. 1999). We review a trial court’s decision regarding habeas corpus relief for an abuse of discretion. *Benford v. Marvel*, 842 N.E.2d 826, 828 (Ind. Ct. App. 2006). Without reweighing the evidence, we consider only the evidence most favorable to the judgment and reasonable inferences drawn therefrom. *Id.*
- [5] However, we review matters of statutory interpretation *de novo* because they present pure questions of law. *Gardiner v. State*, 928 N.E.2d 194, 196 (Ind. 2010). When interpreting a statute, “our primary goal is to determine the legislature’s intent.” *D.P. v. State*, 151 N.E.3d 1210, 1216 (Ind. 2020). To determine intent, we first look at the language of the statute and “[i]f the language is clear and unambiguous, we give effect to its plain and ordinary meaning[.]” *Id.* If the statute is ambiguous, we “resort to rules of statutory interpretation so as to give effect to the legislature’s intent.” *Suggs v. State*, 51 N.E.3d 1190, 1194 (Ind. 2016).

[6] Manley was convicted of two Class A felonies and two Class B felonies. Indiana Code section 35-50-2-4 and 35-50-2-5 provide the sentencing guidelines for Class A and Class B felonies. At the time of Manley’s conviction, the statutes read as follows:

A person who commits a Class A felony shall be imprisoned for a fixed term of thirty (30) years, with not more than twenty (20) years added for aggravating circumstances or not more than ten (10) years subtracted for mitigating circumstances.

Ind. Code § 35-50-2-4 (1995).

A person who commits a Class B felony shall be imprisoned for a fixed term of ten (10) years, with not more than ten (10) years added for aggravating circumstances or not more than four (4) years subtracted for mitigating circumstances.

Ind. Code § 35-50-2-5 (1996).

[7] Pursuant to Indiana Code section 35-50-6-1(d) (1994):

When an offender . . . completes the offender’s fixed term of imprisonment, less credit time earned with respect to that term, the offender shall be placed on parole for not more than ten (10) years.

[8] Manley argues that the DOC “failed to release [him] from physical custody after he completed his fixed term of imprisonment.” Brief of the Appellant at 7. Specifically, Manley contends that his “fixed term of imprisonment” was ten years for his Class B felonies and thirty years for his Class A felonies, not the

fifteen- and forty-year sentences he received.³ *Id.* Essentially, Manley argues that sentence enhancements due to aggravating circumstances do not change the “fixed term” used to determine when he became eligible for parole under Indiana Code section 35-50-6-1(d).

[9] To construe the parole statute as Manley suggests would essentially make the aggravating and mitigating circumstance portions of Indiana Code sections 35-50-2-4 & 35-50-2-5 pointless. And our supreme court has stated that in interpreting a statute, “no part should be held to be meaningless[.]” *Siwinski v. Town of Ogden Dunes*, 949 N.E.2d 825, 828 (Ind. 2011). Further, “the legislature is presumed to have intended the language used in the statute to be applied logically and not to bring about an unjust or absurd result.” *Sanders v. Bd. of Comm’rs*, 892 N.E.2d 1249, 1252 (Ind. Ct. App. 2008), *trans. denied*. As the State notes in its brief, Manley’s interpretation of “fixed term” would require offenders with reduced sentences due to mitigating circumstances to serve longer sentences prior to being released on parole under Indiana Code section 35-50-6-1(d). *See* Brief of Appellee at 12.

[10] Therefore, we conclude that Manley’s suggested interpretation of the statutes is contrary to the legislature’s intent. The “fixed term of imprisonment” that must

³ Manley also contends that the trial court’s decision denying his petition constituted an *ex post facto* law violation because it “increases Manley’s fixed term of imprisonment . . . based upon 2005 amendments to the Indiana penal code.” Br. of Appellant at 5-6. However, Manley fails to make a cogent argument supporting this contention, so we do not address it. *See Willet v. State*, 151 N.E.3d 1274, 1277 (Ind. Ct. App. 2020) (“It is well established that failure to present a cogent argument results in waiver on appeal.”).

be completed prior to being released on parole is the term of incarceration imposed by the trial court and includes any enhancement or reduction due to aggravating or mitigating circumstances.

Conclusion

[11] We conclude the trial court did not abuse its discretion by denying Manley's Petition for Writ of Habeas Corpus. Accordingly, we affirm.

[12] Affirmed.

Riley, J., and Molter, J., concur.