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Sittre v. Craven Respondent's Brief Dckt. 40482

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Statutes

None

Rules

None

STATEMENT OF THE CASE

A. Nature of the Case

This is a habeas corpus case in which the appellant (“Sittre”), a pro se incarcerated inmate, filed a complaint in the District Court claiming that her rights under the Habeas Corpus Litigation and Procedures Act were violated because she was denied parole. The District Court dismissed her complaint.

B. Proceedings Below

On July 27, 2012, Sittre filed a petition for writ of habeas corpus. (CR000003). On August 6 2012, the District Court entered an order requiring a response. (CR 000058) The Respondents moved for Summary Judgment on August 29, 2012. (CR 000057). Sittre responded on September 21, 2012. (CR000072). The District Court granted summary judgment on October 17, 2012. (CR 000084). This appeal followed (CR 000091).

C. Statement of the Facts

On July 27, 2012, Sittre filed a habeas corpus petition claiming she was wrongly denied parole. (CR 000003). The IDOC filed a motion for summary judgment. (CR 000057) supported by the affidavit of Olivia Craven, the executive Director of the Commission of Pardons and Parole. (CR 000064). The record indicated a rational basis for denying parole. Sittre had a long criminal record, multiple failures on parole and had still not completed required programming. On October 17, 2012, the District Court issued its memorandum decision and order finding that “[t]he commission had a rational basis for denying the petitioner parole. She has a long and extensive history of engaging in

criminal behavior. She has a poor supervision history. She has committed disciplinary offenses while in prison. The commission was also not impressed with her parole plan.”.

(CR 000087). This appeal followed. (CR 000091).

ISSUES PRESENTED

Sittre provides no statement of the issue on appeal

Respondent wishes to restate the issue as follows;

Sittre has failed to establish that the District Court erred in concluding that a rational basis existed for the decision to deny her parole.

STANDARD OF REVIEW

The Appellate Court defers to the District Court's findings of fact if they are supported by substantial evidence while legal conclusions are reviewed de novo. *Idaho Power Company. v. Idaho State Tax Commission.*, 141 Idaho 316, 321, 109 P.3d 170, 175 (2005).

ARGUMENT

1. Sittre has failed to establish the District Court erred in concluding that a rational basis existed for denying her parole.

Sittre's appellant brief provides no argument as to how the District Court erred. She asserts that she should have been granted parole because if parole is granted for one prisoner "but not for the other, sentence of confinement is unreasonable and constitutes abuse of discretion if it exceeds minimum required under any reasonable view of the facts...." *Appellant Brief*, p. 2. Her failure to provide argument or analysis supports waiver of her claim that the District Court erred. *Wheeler v. Idaho Department of Health and Welfare*, 147 Idaho 257, 207 P.3d 988 (2009).

A brief review of the facts is helpful. As stated by Respondents in their motion for summary judgment:

The minutes of Sittre's parole hearing detail her crimes. She drove while intoxicated. When the officer pulled her over she had a blood alcohol level of .21—almost three times the legal limit. Regarding the Burglary charge, she stole a case of beer when no one was looking even though she had the money to pay for it. Sittre had not completed her programming—the most important of which is Driving the Right Way—which focuses on driving clean and sober. On this basis alone it is reasonable for the Commission to conclude that Sittre remains a danger to society and should not be released on parole.

The Commission also noted that Sittre had two disciplinary offenses, one for using profanity when angry and the other for manipulating the unit cooling system with a paper clip. Although on their face these don't seem very significant, the profanity offense speaks to the fact that anger management is still an issue with Sittre. Manipulating the cooling unit speaks to a tendency to disregard authority. Both tendencies indicate anti-social behavior.

Perhaps most importantly, the Commission noted that Sittre has a long criminal history with several failed parole opportunities. She was incarcerated between 1983 and 2000 during which time she had three opportunities at parole. Sittre failed each time. Finally, this appearance before the Commission was the result of a probation violation where the probation office wanted her to come to prison for treatment and programming.

Motion for Summary Judgment, p. (CR 000061-62).

The Respondents moved for summary judgment. The District Court reviewed the supporting documents and found “[t]he commission had a rational basis for denying the petitioner parole. She has a long and extensive history of engaging in criminal behavior. She has a poor supervision history. She has committed disciplinary offenses while in prison. The commission was also not impressed with her parole plan.”. *Memorandum Decision*, (CR 000087). On that basis, summary judgment was granted. As indicated, Sittre provides no argument as to how the District Court erred. The record establishes that the District Court applied the correct standard of law, carefully reviewed the evidence and reached the proper conclusion. Sittre has failed to establish error.

CONCLUSION

For the reasons set forth above, the District Court's Memorandum Decision and Order dismissing Sittre's case should be affirmed.

Respectfully submitted this 31st day of May 2013.



WILLIAM M. LOOMIS
Deputy Attorney General
Counsel for Respondents

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 31 of May 2013, I caused to be mailed two true and correct copies of the foregoing to:

Jonnine Sittre #27526
SBWCC
1320 S. Pleasant Valley Rd
Kuna, ID 83634

via the prison mail system.



WILLIAM M. LOOMIS