

Order

Michigan Supreme Court
Lansing, Michigan

May 24, 2013

Robert P. Young, Jr.,
Chief Justice

145116

Michael F. Cavanagh
Stephen J. Markman
Mary Beth Kelly
Brian K. Zahra
Bridget M. McCormack
David F. Viviano,
Justices

PATRICK J. KENNEY,
Plaintiff-Appellant,

v

SC: 145116
COA: 304900
Wayne CC: 11-003828-AH

WARDEN RAYMOND BOOKER,
Defendant-Appellee.

On order of the Court, the briefs and oral arguments of the parties having been considered by the Court, we AFFIRM the April 3, 2012 judgment of the Court of Appeals. Save for limited exceptions, “[a]n action for habeas corpus . . . may be brought by or on the behalf of any person restrained of his liberty within this state under any pretense whatsoever.” MCL 600.4307. Habeas relief is appropriate only where a habeas petitioner can show a radical defect that renders a proceeding or judgment void. *In re Stone*, 295 Mich 207, 209 (1940). Habeas corpus does not function as a writ of error, *In re Joseph*, 206 Mich 659, 661-662 (1919), and it “is not available to test questions of evidence,” *In re Stone* at 212. The plaintiff here challenges the legal standard employed by the Parole Board to revoke his parole and claims that the evidence was insufficient to establish an actual violation of parole. These alleged errors do not constitute radical defects that render void the proceedings of the Parole Board. Accordingly, the plaintiff is not entitled to habeas relief.

CAVANAGH, J., concurs in the result only.



t0521

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 24, 2013

Corbin R. Davis

Clerk