

IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 23-0296

FILED

JUN 13 2023

Bowen Greenwood
Clerk of Supreme Court
State of Montana

RICHARD PATTERSON,

Petitioner,

v.

JAMES SALMONSEN, Warden,

Respondent.

ORDER

Richard Patterson has filed a Petition for Writ of Habeas Corpus, asserting his incarceration is illegal based upon nine specified grounds for relief.

Patterson is serving a 100-year sentence with a twenty-five-year parole ineligibility restriction for his conviction of two counts of sexual intercourse without consent and one count of sexual assault. Patterson appealed his convictions and sentence from the Sixteenth Judicial District Court, Custer County, and this Court affirmed. *State v. Patterson*, 2012 MT 282, 367 Mont. 186, 291 P.3d 556.

Patterson argues that he seeks “to expose the prejudice and bias within this case.” His stated issues are: (1) False Evidence; (2) Unaddressed Brady Violations; (3) Erroneous Ruling and Enforcement of § 45-5-511(2), MCA; (4) Violations of Montana Rules of Professional Conduct; (5) Failure to Address an Issue or Claim; (6) Judge Misrepresenting Facts and Denying DNA Results; (7) Due Process Violations; (8) Multiple Accusers in a Single Trial before a Single Jury; and (9) Affirming his Convictions and not Dismissing the Charges. Patterson offers that he has thirteen arguments this Court should address directly, because these claims were not raised in his appeal.

Patterson cannot attack his convictions collaterally now and by means of habeas corpus. Section 46-22-101(2), MCA (“The writ of habeas corpus is not available to attack the validity of the conviction or sentence of a person who has been adjudged guilty of an

offense in a court of record and has exhausted the remedy of appeal.”). Postconviction matters do not provide the means to relitigate claims that could have been raised previously and after an appeal’s final decision. Section 46-21-105(2), MCA (“When a petitioner has been afforded the opportunity for a direct appeal of the petitioner’s conviction, grounds for relief that were or could reasonably have been raised on direct appeal may not be raised, considered, or decided” in a postconviction proceeding”); *see also Lacey v. State*, 2017 MT 18, ¶ 16, 386 Mont. 204, 389 P.3d 233. Further, “[c]ollateral estoppel has wide application on its elements in various contexts including, *inter alia*, application in various special proceedings *related to* criminal proceedings (e.g. direct appeal, postconviction proceedings, and habeas corpus review) to preclude relitigation of claims or issues previously addressed by this Court. *State v. Huffine*, 2018 MT 175, ¶ 16, 392 Mont. 103, 422 P.3d 102 (emphasis in original). Patterson’s opportunity to expose any alleged prejudice and bias was in his direct appeal more than a decade ago. Patterson has exhausted the remedy of appeal by appealing, and he is precluded from raising these issues that could have been raised in a direct appeal. Patterson has not demonstrated illegal incarceration. Therefore,

IT IS ORDERED that Patterson’s Petition for Writ of Habeas Corpus is DENIED and DISMISSED.

IT IS FURTHER ORDERED that the Clerk is directed to CLOSE this matter as of the Order’s date.

The Clerk is also directed to provide a copy of this Order to counsel of record and to Richard Patterson.

DATED this 13 of June, 2023.



Chief Justice



James Fisher

John F. ...

August 1857

Justices