

STATE OF MICHIGAN
COURT OF CLAIMS

RAHJON MALIK COX,

Plaintiff,

v

Case No. 25-000054-MB

STATE OF MICHIGAN, MICHIGAN
DEPARTMENT OF CORRECTIONS,
MICHIGAN PAROLE BOARD, and BRIAN
SHIPMAN, Chairperson of the Michigan Parole
Board in his official capacity,

Hon. Christopher P. Yates

Defendants.

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OPINION AND ORDER GRANTING SUMMARY DISPOSITION TO DEFENDANTS

Plaintiff, a prisoner serving a federal sentence in a federal prison, seeks a writ of mandamus directing the Michigan Parole Board (the parole board) to accept jurisdiction over him and consider him for parole. Defendants have moved for summary disposition on the basis that plaintiff is not in the custody of the Michigan Department of Corrections (MDOC), so the parole board does not have a ministerial duty to take jurisdiction over him and consider his eligibility for parole. Because it is undisputed that plaintiff is not confined in an MDOC facility, the Court shall grant defendants' motion for summary disposition under MCR 2.116(C)(10) and dismiss the case.

I. FACTUAL BACKGROUND

While plaintiff was serving a 60-month federal sentence that began on November 30, 2023, he was returned to Michigan on a detainer to face pending criminal charges in state court. Plaintiff pleaded guilty to charges in Wayne Circuit Court Case No. 12-000218-01-FH on February 26,

2024. The judgment of sentence for that case indicates that the Wayne Circuit Court sentenced plaintiff on March 28, 2024, to a prison term of 12 months to 30 months, to be served concurrently with the federal sentence plaintiff was serving. The judgment directed the sheriff to “deliver the defendant to [MDOC] at a place designated by the department.” Plaintiff’s complaint in this case does not allege he was delivered to MDOC or he was confined in a Michigan correctional facility. See MCL 800.48. Instead, the complaint alleges that plaintiff is incarcerated at a United States penitentiary in Pennsylvania. An affidavit of the Central Office Records Administrator for MDOC attached to defendants’ motion for summary disposition states that MDOC has no records showing that plaintiff was delivered to MDOC under the judgment of sentence from Wayne Circuit Court No. 12-000218-01-FH or that he was processed into MDOC.

II. LEGAL ANALYSIS

Plaintiff’s complaint requests a writ of mandamus under MCL 600.4401 and MCR 3.305 directing the parole board to accept jurisdiction of him and to consider him for parole before the expiration of his net minimum sentence. Defendants challenge the claim for a writ of mandamus under MCR 2.116(C)(8) or (10). Because the Court has reviewed documentary evidence attached to the motion for summary disposition, the Court shall treat the motion as a request for relief under MCR 2.116(C)(10).

A motion for summary disposition under MCR 2.116(C)(10) “tests the *factual sufficiency* of a claim.” *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 160; 934 NW2d 665 (2019). The Court “must consider all evidence submitted by the parties in the light most favorable to the party opposing the motion.” *Id.* The Court must consider the pleadings, affidavits, depositions, admissions, and any other documentary evidence submitted by the parties. MCR 2.116(G)(5). “A motion under MCR 2.116(C)(10) may only be granted when there is no genuine issue of material

fact.” *El-Khalil*, 504 Mich at 160. “A genuine issue of material fact exists when the record leaves open an issue upon which reasonable minds might differ.” *Id.* (cleaned up).

Mandamus is a discretionary and extraordinary remedy. *Warren City Council v Buffa*, 346 Mich App 528, 551; 12 NW3d 681 (2023). The plaintiff must establish: (1) a clear legal right to the act sought to be compelled; (2) a clear legal duty by the defendant to perform the act; (3) that the act is ministerial, leaving nothing to the judgment or discretion of the defendant; and (4) that no other adequate remedy exists. *Johnson v Bd of State Canvassers*, 341 Mich App 671, 685; 991 NW2d 840 (2022). A clear legal right “is one clearly founded in, or granted by, law; a right which is inferable as a matter of law from uncontested facts regardless of the difficulty of the legal question to be decided.” *Hayes v Parole Bd*, 312 Mich App 774, 778; 886 NW2d 725 (2015) (cleaned up).

Plaintiff insists he has a clear legal right under MCL 791.234(1) to have the parole board take jurisdiction over him and to consider him for parole under MCL 791.235 before the expiration of his net minimum sentence. Similarly, plaintiff contends that the parole board has a clear legal duty to assert jurisdiction over him under MCL 791.234(1) and consider him for parole under MCL 791.235. Plaintiff cites *Hayes*, 312 Mich App at 774, for the proposition that a writ of mandamus should be issued if the parole board refuses to consider a prisoner for parole upon the expiration of his net minimum sentence.

Hayes is factually distinguishable because the plaintiff in *Hayes* was in MDOC’s custody when he sought to be considered for parole. MCL 791.234(1) states: “Except for a prisoner granted

parole under section 35(10)¹ or as provided in section 34a, a prisoner sentenced to an indeterminate sentence *and confined in a state correctional facility* with a minimum in terms of years other than a prisoner subject to disciplinary time is subject to the jurisdiction of the parole board when the prisoner has served a period of time equal to the minimum sentence imposed by the court for the crime of which he or she was convicted, less good time and disciplinary credits, if applicable” (emphasis added). Plaintiff has not alleged that he is confined in an MDOC facility. Instead, he has alleged that he is confined in a federal penitentiary. Defendants have presented uncontested evidence that plaintiff was not delivered to MDOC following his state conviction and that plaintiff is not confined in an MDOC facility. Under the plain language of MCL 791.234(1), plaintiff does not have a clear legal right to have the parole board take jurisdiction over him, nor does the parole board have a clear legal duty to take jurisdiction over plaintiff, unless and until plaintiff is in the custody of MDOC.² Accordingly, plaintiff is not entitled to a writ of mandamus.

III. CONCLUSION

Defendants’ motion for summary disposition is granted under MCR 2.116(C)(10) and the case is dismissed.

¹ MCL 791.235(10) concerns medical paroles, and MCL 791.234a(1) concerns placement in a special alternative incarceration unit. Neither exception is applicable here.

² Plaintiff’s reliance on *In re Carey*, 372 Mich 378; 126 NW2d 727 (1964), is misplaced because, in that case, the petitioner had completed his federal prison term, and then he had been “transferred to the department of corrections of Michigan” before he filed his petition. *Id.* at 379. Our Supreme Court ruled that the petitioner was entitled to mandamus relief, overruling its decisions stating that “where an individual has been in custody of Federal authorities when sentenced in a State court,” “his State sentence does not begin to run until delivered to the custody of State authorities.” *Id.* at 380. The *In re Carey* decision may be of assistance to plaintiff after he serves his federal sentence and is delivered to MDOC’s custody, but it has no bearing on plaintiff’s situation so long as he is in federal custody.

IT IS SO ORDERED.

This is a final order that resolves the last claim and closes the case.

Date: September 8, 2025



Hon. Christopher P. Yates (P41017)
Judge, Court of Claims

