NOTICE

This is a summary disposition issued under Alaska Appellate Rule 214(a). Summary dispositions of this Court do not create legal precedent. See Alaska Appellate Rule 214(d).

IN THE COURT OF APPEALS OF THE STATE OF ALASKA

ROGER TEAS, f/k/a Jason A. Abbott,

Appellant,

v.

STATE OF ALASKA,

Appellee.

Court of Appeals No. A-14059
Trial Court No. 1SI-16-00119 CI

SUMMARY DISPOSITION

No. 0395 — October 23, 2024

Appeal from the Superior Court, First Judicial District, Sitka, Katherine H. Lybrand, Judge.

Appearances: Lindsey Bray, Assistant Public Defender, and Terrence Haas, Public Defender, Anchorage, for the Appellant. Kenneth M. Rosenstein, Assistant Attorney General, Office of Criminal Appeals, Anchorage, and Treg R. Taylor, Attorney General, Juneau, for the Appellee.

Before: Allard, Chief Judge, and Harbison and Terrell, Judges.

In 2008, Roger Teas stabbed five members of his family, killing four of them and seriously injuring the fifth.[1] For this conduct, Teas ultimately pleaded guilty to two counts of first-degree murder and to one count of first-degree assault, and he further agreed that the court could enter a finding of guilty but mentally ill (GBMI).[2]

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[1] *Abbott v. State*, 2010 WL 5022365, at *1 (Alaska App. Dec. 8, 2010) (unpublished). Teas was formerly known as Jason A. Abbott.

[2] AS 11.41.100(a)(1)(A), AS 11.41.200(a)(1), and AS 12.47.050(a), respectively.

As part of his plea, Teas agreed to open sentencing and conceded one aggravating factor. The superior court ultimately sentenced Teas to a composite sentence of 140 years to serve. Teas then appealed this sentence as excessive, but in 2010 this Court rejected Teas's claims and affirmed his sentence.[3]

Approximately six years later, Teas filed an application for post-conviction relief. He argued that the GBMI statute was invalid for various constitutional reasons, and asked the court to "vacate the plea, sentence and/or GBMI designation." The superior court dismissed Teas's application as untimely because he filed it more than one year after we affirmed his conviction on direct appeal.[4]

On appeal, Teas argues that the superior court erred when it dismissed his application as untimely. Specifically, Teas asserts that his application presented an "illegal sentence" claim, which can be raised at any time under AS 12.72.020(a)(3).[5]

It is difficult to understand Teas's arguments, and as a result, it is also difficult to determine whether Teas is raising an "illegal sentence" claim. In his amended application, Teas asserted that the GBMI designation violates various constitutional provisions, and that therefore "[a] criminal defendant may not enter a plea of guilty but mentally ill." But in his opposition to the State's motion to dismiss the application, Teas explained that he was "not argu[ing] that the [GBMI] statute itself should be declared unconstitutional."[6]

As best we can tell, Teas appears to be making an argument about how the GBMI statute is being *implemented*. That is, he is arguing that although the statute

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[3] *Abbott*, 2010 WL 5022365, at *1.

[4] *See* AS 12.72.020(a)(3)(A).

[5] AS 12.72.020(a)(3) (providing that an application for post-conviction relief may be filed at any time "if the applicant claims that the sentence was illegal").

[6] Teas's appellate briefing similarly asserts both that "*all* GBMI pleas are invalid" but that "he is not challenging the facial validity of the GBMI statutes."

itself is not unconstitutional, the manner in which the Department of Corrections has interpreted and applied the statute is. For example, Teas asserts in appellate briefing that "GBMI pleas are invalid *until* certain administrative mechanisms exist to provide a means of seeking parole and hospitaliz[ing] and therapeutically mitigat[ing] GBMI defendants." (Emphasis added).

If we have correctly characterized Teas's argument, such a claim cannot be raised as an illegal sentence claim. This Court addressed a similar issue in *Bishop v. Municipality of Anchorage*.[7] In that case, the defendant filed a motion under Alaska Criminal Rule 35(a)[8] asking the court to correct an illegal sentence on the ground that the parole board had interpreted a statute in such a way as to render the defendant ineligible for parole.[9] We held that the term "illegal sentence" "applies only to sentences which the judgment of conviction did not authorize."[10] We explained that "Rule 35(a) does not permit consideration of matters outside the sentencing record," and concluded that "Bishop's inability to obtain a parole hearing subsequent to being sentenced did not render his original sentence 'illegal.'"[11]

The same is true here. To evaluate Teas's claim (as we understand it), the superior court would inevitably be required to consider "matters outside the sentencing record" — specifically, evidence about how the Department of Corrections is currently

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[7] *Bishop v. Municipality of Anchorage*, 685 P.2d 103 (Alaska App. 1984).

[8] Rule 35(a) states that the court "may correct an illegal sentence at any time."

[9] Although Teas's argument concerns the definition of an illegal sentence for purposes of AS 12.72.020(a)(3) rather than Criminal Rule 35(a), both parties rely on cases interpreting Rule 35(a) to support their arguments. For example, both cite *Bishop* — a case that construed Rule 35(a), not AS 12.72.020(a)(3). Because the statute and rule contain essentially the same language, we also rely on our case law interpreting Criminal Rule 35(a).

[10] *Bishop*, 685 P.2d at 105.

[11] *Id.*

implementing the GBMI statute — in violation of *Bishop*'s prohibition on such evidence. Teas's claim is therefore not an illegal sentence claim.

In reaching this conclusion, we are careful to note that our decision is limited to whether Teas's claim constitutes an illegal sentence claim for purposes of AS 12.72.020(a)(3). We express no opinion on whether, assuming there is some merit to Teas's underlying complaint about how the Department has implemented his sentence, Teas might be entitled to relief through some other procedural mechanism.[12]

Finally, to the extent Teas intended to raise some other illegal sentence claim, we are unable to discern what that claim may be and we are therefore unable to consider it further.[13]

The judgment of the superior court is AFFIRMED.

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[12] *See id.* at 106-07 (holding that an independent civil action for an injunction or declaratory relief was the appropriate procedural vehicle for the defendant to challenge the parole board's interpretation of a statute).

[13] *See Blair v. Fed. Ins. Co.*, 433 P.3d 1048, 1055 (Alaska 2018) (finding an argument waived due to inadequate briefing when the appellant's briefing was "cursory and confusing"); *see also Harrison v. Woods Super Mkts., Inc.*, 115 S.W.3d 384, 387 (Mo. App. 2003) (concluding that briefing was inadequate when it was "so jumbled and unclear" that the court could not understand the nature of the appellant's claims).