

Circuit Court for Harford County
Case Nos. 12-K-17-000153 and
C-12-CV-20-000557

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND
CONSOLIDATED CASES

No. 1003
September Term, 2020

SHERRIE LYN MILLER
v.
STATE OF MARYLAND

No. 1031
September Term, 2020

SHERRIE LYN MILLER
v.
MARGARET CHIPPENDALE, ET AL.

Wells, C.J.
Reed,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Reed, J.

Filed: June 13, 2022

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

This is an appeal from a denial of a request for habeas corpus relief. On November 18, 2019, appellant, Sherrie Lyn Miller, appeared before the Circuit Court for Harford County in Case Number 12-K-17-000153 and pleaded guilty to two counts of conspiracy to distribute marijuana and one count of possession of marijuana with intent to distribute. In accordance with the plea agreement, the court sentenced her to twelve years in prison, with the expectation that after three years the sentence would be modified to time served. The start date of the sentence was January 3, 2020.

On August 10, 2020, Miller filed an Emergency Petition for Writ of Habeas Corpus in the circuit court against appellees, Margaret Chippendale, Warden for the Maryland Correctional Institute for Women (“MCIW”), and O. Wayne Hill, Commissioner of Correction (“Commissioner”) for the Division of Correction (“Division”). That petition was docketed as C-12-CV-20-000557. The next month, Miller filed essentially the same petition in the criminal case as well (12-K-17-000153). Miller claimed in the petition that the Commissioner violated a gubernatorial executive order that authorized the Commissioner to place eligible inmates on expedited home detention due to the COVID-19 pandemic. Miller alleged that the Commissioner violated that executive order by refusing to consider her for home detention. After a hearing held on November 2, 2020, the circuit court denied the petition.

Miller filed a timely notice of appeal in both cases, which this Court consolidated. Miller presents one question for our review:

Did the circuit court err in denying the appellant’s petition for writ of habeas corpus?

For the reasons to be discussed, we shall affirm the judgment of the circuit court.

FACTUAL & PROCEDURAL BACKGROUND

After reporting to the local detention center on January 3, 2020, Miller was sent to MCIW to serve her sentence. On April 18, 2020, in response to the COVID-19 pandemic, Governor Hogan issued Executive Order 20-04-18-01 “Implementing Alternative Correctional Detention and Supervision[.]” That order made the following findings:

WHEREAS, Because of inmates’ close proximity to each other, employees, and contractors in correctional facilities, the spread of COVID-19 there poses a significant threat to their health, welfare, and safety, as well as the communities in which they live or to which they will return;

WHEREAS, In order to reduce the threat to health, welfare, and safety caused by rapid transmission of COVID-19 between residents and staff in congregative correctional custody, and enable social distancing and other mitigation efforts, certain inmates must be removed from these facilities;

WHEREAS, Decisions regarding expeditious release for certain eligible inmates should consider threats to their health, access to appropriate medical and social services, and safeguards to protect public safety;

WHEREAS, It is in the public interest to prevent inmates’ exposure to the novel coronavirus by expeditiously moving them to alternative places of confinement, such as in supervised community placement or their homes;

WHEREAS, It is reasonable to expect that certain inmates do not present a threat to public safety and will abide by the restrictions of alternative places of detention, provided there are plans to ensure access to places of residence, social services, and medical care;

WHEREAS, To prevent exposure to the novel coronavirus, protect the public health, welfare, and safety, and save lives, it is necessary that inmates and staff refrain from congregating, that these individuals’ movements and the

occupancy of prisons and other correctional facilities be controlled, and that part of their populations be evacuated;

WHEREAS, It is further necessary to suspend the effect of certain statutes, rules, and regulations regarding correctional detention and supervision procedures; and

WHEREAS, To mitigate the effects of the spread of COVID-19 and protect the public health, welfare, and safety, especially of vulnerable workers or incarcerated persons at Maryland prisons, it is necessary and reasonable to implement protocols and procedures for transfer out of the State’s correctional institutions[.]

Exec. Order No. 20-04-18-01 at 1-2.

That executive order authorized the Commissioner to consider eligible inmates for expedited home detention:

1. To continue to safely reduce correctional facilities’ populations of inmates and prevent the spread of COVID-19:

a. The Commissioner of Correction (the “Commissioner”) is authorized to, for all inmates in the custody of the Division of Correction:

* * *

ii. Who are eligible pursuant to [Md. Code, Correctional Services (“Corr. Servs.”)] § 3-404, immediately consider them for home detention (“expedited home detention”)[.]

* * *

2. An inmate is not eligible for early mandatory supervision, expedited home detention, or accelerated parole if the term of confinement includes a sentence for a sexual offense.

* * *

5. Upon a determination that the action will reduce the inmate’s risk of exposure to COVID-19 and will not compromise the health, welfare, or safety of the inmate, victims, or the public, the Commissioner may:

* * *

b. Place the inmate on expedited home detention.

* * *

10. Effect of Other Laws.

a. The effect of any statute, rule, or regulation of an agency of the State or a political subdivision inconsistent with this Order, including [Corr. Servs.] §§ 3-708, 7-501(b), and

b. 7-505(a), and Code of Maryland Regulations 12.02.26.05C(5) through (7), is hereby suspended.

c. Except as expressly provided for herein, all other laws regarding an inmate’s release on mandatory supervision, placement in home detention, or parole remain in effect.

Exec. Order No. 20-04-18-01 at 2-5.

On November 2, 2020, the court held a hearing on Miller’s petition for writ of habeas corpus. Miller, through counsel, stated the relief that Miller sought: “All we’re asking is that [Miller] be considered immediately for home detention as authorized by Governor Hogan.” Miller noted that she did not fall into any of the categories of inmates excluded from home detention program eligibility under Corr. Servs. § 3-404, which provides:

An inmate is not eligible for the [home detention] program if the inmate:

(1) is serving a life sentence;

(2) has been found guilty of a crime of violence as defined in § 14-101 of the Criminal Law Article unless:

(i) 5 years have elapsed since expiration of the sentence for the crime of violence; or

(ii) the inmate is within 90 days of release on parole or mandatory supervision; or

(3) has been found guilty of the crime of:

(i) child abuse under § 3-601 or § 3-602 of the Criminal Law Article; or

(ii) escape under § 9-404 of the Criminal Law Article.

Thomas Nittinger, acting director of case management for the Division, testified at the hearing. Nittinger testified that Miller’s release date is in January 2028. Nittinger explained that Miller was ineligible for home detention because she was not within six months of her release date. Code of Maryland Regulations (“COMAR”) 12.02.26.05D(1) provides: “An inmate who has more than 6 months remaining before release at the time of home detention placement is ineligible if the inmate . . . [i]s currently serving a sentence for the manufacturing, distribution, possession with intent to distribute, or conspiracy to distribute a controlled dangerous substance as defined by the Annotated Code of Maryland[.]”

Miller argued that the executive order suspended COMAR 12.02.26.05D(1), and she was thus eligible for expedited home detention under the executive order because she was not excluded from home detention program eligibility under Corr. Servs. § 3-404. The State contended that the express language of the executive order did not suspend COMAR 12.02.26.05D(1), and thus Miller was ineligible for expedited home detention. The circuit court noted, while the executive order suspended some COMAR provisions, “if [the Governor] wanted to say that other laws are also to be suspended he would have said so.

But he said all other laws remain in effect.” In addition, the circuit court ruled that Miller’s “conviction for possession with intent to distribute, and more particularly, her sentence in this case with a mandatory release date in 2028 do not make her eligible for consideration of home detention.” The court thus denied Miller’s request for habeas corpus relief.

The April 2020 executive order stated that it “remain[ed] effective until the state of emergency is terminated and the proclamation of the catastrophic health emergency is rescinded, or until rescinded, superseded, amended, or revised by any subsequent orders.” Exec. Order No. 20-04-18-01 at 5. Thereafter, on November 17, 2020, the Governor issued Executive Order No. 20-11-17-03 “Implementing Alternative Correctional Detention and Supervision[.]” That order superseded the April 2020 executive order and it was nearly identical to it, except that the November 2020 order provided:

1. To continue to safely reduce correctional facilities’ populations of inmates and prevent the spread of COVID-19:

a. The Commissioner of Correction (the “Commissioner”) is authorized to, for all inmates in the custody of the Division of Correction:

* * *

ii. Who are otherwise eligible for home detention, immediately consider them for home detention (“expedited home detention”)[.]

* * *

10. Effect of Other Laws.

a. The effect of any statute, rule, or regulation of an agency of the State or a political subdivision inconsistent with this Order (including [Corr. Servs.] §§ 3-708, 7-501(b), and 7-505(a), and Code of Maryland Regulations 12.02.26.05C(5) through (7)) is hereby suspended to the extent of the inconsistency.

b. Except as expressly provided for herein, all other laws regarding an inmate’s release on mandatory supervision, placement in home detention, or parole remain in effect.

Exec. Order No. 20-11-17-03 at 2-4. The November 2020 order expired on July 1, 2021.

Exec. Order. No. 21-06-15-01.

STANDARD OF REVIEW

“We review the denial of an application for habeas corpus relief under the standard set forth in Maryland Rule 8-131(c). We will review the case on both the law and the evidence, and we will not set aside the judgment on the evidence unless clearly erroneous.” *Sabisch v. Moyer*, 466 Md. 327, 349 (2019) (quoting *Wilson v. Simms*, 157 Md. App. 82, 91 (2004)). “Questions of law, however, require our non-deferential review. When the trial court’s decision involves an interpretation and application of Maryland statutory and case law, [we] must determine whether the trial court’s conclusions are legally correct.” *Sabisch*, 466 Md. at 349 (quoting *Est. of Zimmerman v. Blatter*, 458 Md. 698, 717-18 (2018)).

DISCUSSION

A. Parties’ Contentions

Miller makes essentially the following four arguments on appeal. First, she asserts that the denial of her petition for habeas corpus relief is appealable. Second, she contends the April 2020 executive order made her eligible for home detention, and thus the circuit court erred in denying her petition for a writ of habeas corpus. Third, she argues that the

plea agreement did not preclude her from seeking home detention. Fourth, she claims that the November 2020 order did not displace or amend the April 2020 order.

In response, the appellees make essentially the following three arguments. First, they contend that Miller did not allege that she is entitled to release or a proceeding that could result in her release, and thus she failed to present a cognizable habeas corpus claim. Second, they claim that Miller failed to exhaust her administrative remedies through the Inmate Grievance Office (“IGO”). Third, they argue that the court correctly rejected Miller’s claim that the Division had misinterpreted the Governor’s executive order.

B. Analysis

“A writ of habeas corpus—meaning ‘that you have the body’ in Law Latin—is ‘employed to bring a person before a court, most frequently to ensure that the person’s imprisonment or detention is not illegal[.]’” *Sabisch*, 466 Md. at 330 (quoting HABEAS CORPUS, Black’s Law Dictionary (11th ed. 2019)). “[T]he right to habeas corpus relief is a judicially-created common law right that is governed by judicial development,” which the General Assembly may regulate “consistent with the Maryland Constitution, *i.e.*, without suspending the writ.” *Sabisch*, 466 Md. at 370. *See also* Md. Const., Art. III, § 55 (“[t]he General Assembly shall pass no Law suspending the privilege of the Writ of Habeas Corpus.”).

Miller argues that her appeal is authorized based on language in the Post Conviction Procedure Act that discusses appealability of habeas corpus claims:

(b)(1) In a case in which a person challenges the validity of confinement under a sentence of imprisonment by seeking the writ of habeas corpus or the

writ of coram nobis or by invoking a common law or statutory remedy other than this title, a person may not appeal to the Court of Appeals or the Court of Special Appeals.

(2) This subtitle does not bar an appeal to the Court of Special Appeals:

(i) in a habeas corpus proceeding begun under § 9-110 of this article; or

(ii) *in any other proceeding in which a writ of habeas corpus is sought for a purpose other than to challenge the legality of a conviction of a crime or sentence of imprisonment for the conviction of the crime, including confinement as a result of a proceeding under Title 4 of the Correctional Services Article.*

Md. Code, Criminal Procedure (“Crim. Proc.”) § 7-107 (emphasis added). To be sure, Miller’s claim did not challenge “the legality of a conviction of a crime or sentence of imprisonment for the conviction of the crime[.]” *Id.* Miller sought habeas corpus relief in the form of a court order directing the Division to consider her for expedited home detention based on her interpretation of an emergency gubernatorial executive order. Thus, an appeal is authorized under the Post Conviction Procedure Act.

The appellees argue that the circuit court’s decision should be affirmed because Miller did not seek release from confinement, nor did she seek a proceeding that could result in her release. Based on that argument, the appellees assert that Miller’s claim is not cognizable as a petition for a writ of habeas corpus.

Md. Code, Courts and Judicial Proceedings (“CJP”) § 3-702(a) sets forth who may petition for a writ of habeas corpus:

A person committed, detained, confined, or restrained from his lawful liberty within the State for any alleged offense or under any color or pretense or any person in his behalf, may petition for the writ of habeas corpus to the end that

the cause of the commitment, detainer, confinement, or restraint may be inquired into.

The applicant must allege that they are “unlawfully confined or restrained[.]” Md. Rule 15-302(a)(1).

In the mid-twentieth century, habeas corpus relief in Maryland was available only to those who had served the full legal portion of their sentence and alleged an entitlement to immediate release. *See, e.g., Fincher v. Warden of Md. House of Corr.*, 216 Md. 644, 646 (1958) (citations omitted). Later, the Court of Appeals expanded the availability of the writ to those who allege an entitlement to a proceeding that may lead to release: “Habeas corpus actions may be maintained where the relief available is the ordering of a proceeding or hearing which may lead to the petitioner’s release.” *Lomax v. Warden, Md. Corr. Training Ctr.*, 356 Md. 569, 575 (1999). *See also Pollock v. Patuxent Inst. Bd. of Rev.*, 358 Md. 656, 668 (2000) (holding that a petition for habeas corpus was an appropriate mechanism to obtain judicial review of a prison review board’s decision not to renew parole). More recently, the Court held that those on probation with conditions that significantly restrain their lawful liberty within the state are entitled to seek habeas corpus relief. *Sabisch*, 466 Md. at 378.

Miller sought to change her location of confinement from MCIW to home detention where she would remain “in the custody of the Commissioner [of Correction].” Corr. Servs. § 3-402. The appellees argue by analogy and note that time spent on home detention qualifies as time spent in the custody of a correctional facility when calculating credit against a sentence under Crim. Proc. § 6-218(b)(1). *See Johnson v. State*, 236 Md. App.

82 (2018); *Spriggs v. State*, 152 Md. App. 62 (2003); *Dedo v. State*, 343 Md. 2 (1996). *Cf. Hiron v. Warden of Md. Penitentiary*, 209 Md. 622, 624 (1956) (matters involving transfer from one institution to another are not reviewable on habeas corpus). The appellees thus contend that Miller’s habeas claim is barred because she did not seek release from confinement, nor did she seek a proceeding that could result in her release. *Lomax*, 356 Md. at 575.¹

The appellees did not raise this argument below. *See* Md. Rule 8-131(a). An appellate court has discretion to affirm on an alternative ground raised for the first time on appeal. *See State v. Bell*, 334 Md. 178, 189 (1994). But that “discretion should be exercised only when it is clear that it will not work an unfair prejudice to the parties or to the court.” *Id.* We decline the appellees’ invitation to affirm on this alternative ground.

The appellees next argue for affirmance because Miller failed to establish that she exhausted her administrative remedies with the IGO. *See* Corr. Servs. § 10-206(a) (an

¹ Our research reveals that federal courts are split on whether a federal habeas petition is a proper vehicle for a prisoner to transfer their confinement to home detention. *Compare Livas v. Myers*, 455 F. Supp. 3d 272, 282-83 (W.D. La. 2020) (even if it is possible to bring conditions of confinement claims as petitions for writs of habeas corpus, the petitioners’ claims failed because they did not seek release from confinement; they sought to force the court to order the Bureau of Prisons to assign them to home confinement or some other lesser form of detention) *with Blackburn v. Noble*, 479 F. Supp. 3d 531, 537-38 (E.D. Ky. 2020) (a habeas petition was a proper vehicle for claims by inmates who sought transfer to home confinement *or* release). In addition, the Court of Appeals recently held that defendants may be eligible for habeas corpus relief when they are granted conditional release after being found not criminally responsible. *Peterson v. State*, 467 Md. 713, 737 (2020). *Cf. Sabisch*, 466 Md. at 378 (those on probation with conditions that significantly restrain their lawful liberty within the state may seek habeas corpus relief).

inmate who “has a grievance against an official or employee of the Division . . . may submit a complaint to the [IGO]”). If the grievance is found to not wholly lack merit on its face, it is referred to the Office of Administrative Hearings (“OAH”) for a hearing before an administrative law judge. *See* Corr. Servs. § 10-207(c). Under Corr. Servs. § 10-210(a), a court “may not consider an individual’s grievance that is within the jurisdiction of the [IGO] or the [OAH] unless the individual has exhausted the remedies” provided by the IGO statute.

The appellees contend that Miller’s claim—that the Division incorrectly determined her to be ineligible for home detention—is “a grievance against an official or employee of the Division” and thus within the jurisdiction of the IGO, and she has not established that she ever filed a grievance with the IGO. The appellees thus urge us to affirm because Miller failed to exhaust administrative remedies.

In *Maryland House of Correction v. Fields*, 348 Md. 245 (1997), *abrogated on other grounds by Moats v. Scott*, 358 Md. 593 (2000), the Court of Appeals held that inmates who allege an entitlement to immediate release “could properly petition the circuit court for writs of habeas corpus despite any failure to invoke and exhaust the inmate grievance administrative and judicial review procedures.” *Id.* at 257. The Court explained that “[i]f a habeas corpus proceeding . . . were nothing more than a common-law or statutory remedy,” then an “inmate would be required first to invoke and exhaust the administrative procedure.” *Id.* at 260. But the writ of habeas corpus “is not simply a common-law or statutory remedy over which the General Assembly has full control[.]”

instead it is “a remedy authorized and protected by the Constitution of Maryland.” *Id.* (citing Md. Const., Art. III, § 55). The Court held in *Fields* that an inmate need not exhaust administrative remedies before petitioning for a writ of habeas corpus “when the plaintiff alleges entitlement to immediate release and makes a colorable claim that [the inmate] has served the entire sentence less any mandatory credits.” *Id.* at 261. Miller has not alleged an entitlement to immediate release from the custody of the Commissioner of Correction. That said, Miller claimed that she is entitled to expedited consideration for a less restrictive form of confinement—home detention—based on an emergency gubernatorial executive order issued during the COVID-19 pandemic. Considering *Fields*, we will assume (but not decide) that Miller may seek habeas corpus relief under these exceptional circumstances, regardless of whether she exhausted administrative remedies.

Miller may be able to clear that potential procedural bar, but she must still show that the court could grant her requested relief. Md. Code, Public Safety § 14-107(d)(1)(i) provides as follows: “After declaring a state of emergency, the Governor, if the Governor finds it necessary in order to protect the public health, welfare, or safety, may: . . . suspend the effect of any statute or rule or regulation of an agency of the State or a political subdivision[.]” Executive orders normally have the force of law. *See Carter v. State*, 461 Md. 295, 344 (2018). As a result, interpretation of a gubernatorial executive order is an issue of law that we review de novo. *See Peterson v. State*, 467 Md. 713, 725 (2020). *See*

also Fraternal Ord. of Police, Montgomery Cnty. Lodge 35 v. Montgomery Cnty., 212 Md. App. 230, 235 (2013), *aff'd*, 437 Md. 618 (2014).

The executive orders did not provide Miller with a right to be considered for expedited home detention. The April 2020 executive order, which Miller argues applies here,² stated as follows:

a. The Commissioner of Correction (the “Commissioner”) *is authorized to*, for all inmates in the custody of the Division of Correction:

* * *

ii. Who are eligible pursuant to [Corr. Servs.] § 3-404, immediately consider them for home detention (“expedited home detention”)[.]

* * *

5. Upon a determination that the action will reduce the inmate’s risk of exposure to COVID-19 and will not compromise the health, welfare, or safety of the inmate, victims, or the public, the Commissioner *may*:

* * *

b. Place the inmate on expedited home detention.

² Miller argues that the November 2020 executive order did not supersede the April 2020 executive order. We disagree for two reasons. First, the April order stated that it remained in effect until it was “rescinded, superseded, amended, or revised by any subsequent orders.” Exec. Order. No. 20-04-18-01 at 5. The November order was a subsequent order that addressed the same issues as the April order. Second, On June 15, 2021, the Governor issued an executive order, which announced that the November order would expire on July 1, 2021. Exec. Order No. 21-06-15-01. That executive order did not announce the expiration of the April order because the November order had superseded it. Indeed, both the November and April orders are listed as “Superseded Orders (not in effect)” on the Maryland.gov website that lists the Governor’s executive orders related to the COVID-19 pandemic. *See* THE OFFICE OF GOVERNOR LARRY HOGAN, COVID-19 PANDEMIC: ORDERS AND GUIDANCE, archived at <https://perma.cc/45MZ-77TW> (accessed on November 23, 2021). In any event, our conclusion is the same when we interpret both orders—together and separately: the court lacked the authority to grant Miller’s requested habeas corpus relief.

Exec. Order No. 20-04-18-01 at 2 (emphasis added). The November 2020 order contained that same permissive language:

1. To continue to safely reduce correctional facilities’ populations of inmates and prevent the spread of COVID-19:

a. The Commissioner of Correction (the “Commissioner”) *is authorized to*, for all inmates in the custody of the Division of Correction:

* * *

ii. Who are otherwise eligible for home detention, immediately consider them for home detention (“expedited home detention”)[.]

* * *

5. Upon a determination that the action will reduce the inmate’s risk of exposure to COVID-19 and will not compromise the health, welfare, or safety of the inmate, victims, or the public, the Commissioner *may*:

* * *

b. Place the inmate on expedited home detention.

Exec. Order No. 20-11-17-03 at 2-4 (emphasis added). The executive orders did not require eligible inmates to be considered for expedited home detention. Instead, the orders authorized eligible inmates to be considered for expedited home detention.

By contrast, the orders mandated the Parole Commission to accelerate consideration of parole for eligible inmates:

b. The Maryland Parole Commission *shall* accelerate consideration of parole (“accelerated parole”) for otherwise eligible inmates who [are at] least 60 years old and have:

i. A record of good institutional adjustment;

ii. An approved home plan; and

iii. Not been convicted of a crime of violence as defined by § 14-101 of the Criminal Law Article of the Maryland Code.

Exec. Order No. 20-04-18-01 at 3; Exec. Order No. 20-11-17-03 at 3 (emphasis added).

The word “shall” signifies that the executive orders required the Parole Commission to accelerate parole consideration for eligible inmates. *See Parker v. State*, 193 Md. App. 469, 502 (2010) (“shall” generally signifies a mandatory duty or obligation). The words “authorized” and “may” signify that the executive orders permitted eligible inmates to be considered for expedited home detention. *See Alexander v. Alexander*, 252 Md. App. 1, 16 (2021) (“may” is generally considered as permissive, rather than mandatory, language); *AUTHORIZE*, Black’s Law Dictionary (11th ed. 2019) (“authorize” means “[t]o give legal authority; to empower” and “[t]o formally approve; to sanction”).

We may affirm the trial court’s ruling on any basis adequately supported by the record. *See, e.g., Yaffe v. Scarlett Place Residential Condo., Inc.*, 205 Md. App. 429, 440 (2012) (“an appellate court can affirm when ‘the record in a case adequately demonstrates that the decision of the trial court was correct, although on a ground not relied upon by the trial court and perhaps not even raised by the parties.’”) (*quoting Robeson v. State*, 285 Md. 498, 502 (1979)). Miller sought habeas corpus relief in the form of a court order directing the Division to consider her for expedited home detention based on the April 2020 executive order. Indeed, at the hearing in circuit court, Miller argued that the court “should take it upon itself to order that pursuant to Governor Hogan’s order she be considered” for home detention. But, as explained above, nothing in the executive orders provided Miller

with a right to be considered for home detention. As a result, the court lacked the authority to grant Miller’s requested habeas corpus relief.³

**JUDGMENT OF THE CIRCUIT COURT
FOR HARFORD COUNTY AFFIRMED;
COSTS TO BE PAID BY APPELLANT.**

³ Miller argues that the terms of the plea agreement did not preclude her from consideration for expedited home detention under the April 2020 executive order. As we have explained, the executive orders did not provide Miller with a right to be considered for expedited home detention. The court lacked the authority to grant Miller’s requested habeas corpus relief.