



In this *pro se* appeal, Appellant-Petitioner Alvino Pizano challenges the trial court's summary denial of his Petition for Writ of Habeas Corpus Relief on the grounds that his petition alleged a future, rather than a current, illegal restraint. We affirm.

### **FACTS**

On approximately January 8, 2010, Pizano filed a Petition for Writ of Habeas Corpus Relief. In this petition, Pizano alleged, *inter alia*, that on April 27, 2007, he was sentenced to serve consecutive sentences of ten years and two years in the Indiana Department of Correction under Cause Numbers 45G01-0505-FC-66 and 45G01-0611-FC-134, respectively. The basis for Pizano's claim appeared to be that certain violations may occur upon his release to parole in December of 2011 or possibly July of 2010, resulting in his being subject to illegal custody. The trial court summarily denied the petition on the grounds that it was not ripe for review. This appeal follows.

### **DECISION**

Indiana Code section 34-25.5-1-1 states as follows: "Every person whose liberty is restrained, under any pretense whatever, may prosecute a writ of habeas corpus to inquire into the cause of the restraint, and shall be delivered from the restraint if the restraint is illegal." The purpose of a writ of habeas corpus is to determine the lawfulness of custody or detention of the defendant and may not be used to determine collateral matters not affecting the custody process. *Hardley v. State*, 893 N.E.2d 740, 742 (Ind. Ct. App. 2008). A defendant is entitled to a writ of habeas corpus if he or she is unlawfully incarcerated and *is entitled to immediate release*. *Id.* (emphasis supplied). We review the trial court's habeas decision for an abuse of discretion. *Id.*

Pizano claims that certain violations will occur during his expected future parole. He does not allege that he is entitled to immediate release or that he is being held illegally. As the trial court found, his claim is therefore unavailable for review. *See id.*

Pizano argues, based upon the federal habeas cases of *Maleng v. Cook*, 490 U.S. 488 (1989) and *Arnett v. Kemp*, 121 Fed. Appx. 658 (7th Cir. 2004), that a prisoner may bring a federal habeas claim to challenge a future period of custody. This may be so, but federal habeas claims, unlike Indiana habeas claims, are also akin to post-conviction review. *See Daniels v. State*, 561 N.E.2d 487, 489 (Ind. 1990) (observing that the purposes of post-conviction relief are “substantially similar to those for which the federal writ of habeas corpus is made available[.]”). Neither *Maleng* nor *Arnett* applies to Indiana habeas proceedings, which are specifically distinct from post-conviction proceedings. *See Partlow v. Superintendent, Miami Correctional Facility*, 756 N.E.2d 978, 980 (Ind. Ct. App. 2001) (“Habeas corpus practice is a well-established but little-used remedy under Indiana state law. The vast majority of criminal appeals take the form of either direct appeals or petitions for post-conviction relief, for which practice and procedure are well-settled.”), *superseded by statute on other grounds as stated in Paul v. State*, 888 N.E.2d 818 (Ind. Ct. App. 2008).

The judgment of the trial court is affirmed.

RILEY, J., and MATHIAS, J., concur.