

**IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
TRUMBULL COUNTY, OHIO**

STATE OF OHIO ex rel. VINCENT EL	:	O P I N I O N
ALAN PARKER BEY,		
	:	
Petitioner,		CASE NO. 2018-T-0090
	:	
- VS -		
	:	
CHARMAINE BRACY, WARDEN,		
	:	
Respondent.		
	:	

Original Action for Writ of Habeas Corpus.

Judgment: Petition dismissed.

Vincent Parker, pro se, PID: A310-623, Trumbull Correctional Institute, 5701 Burnett Road, Leavittsburg, OH 44430 (Petitioner).

Mike DeWine, Ohio Attorney General, State Office Tower, 30 East Broad Street, 16th Floor, Columbus, OH 43215; and *Stephanie L. Watson*, Assistant Attorney General, Ohio Attorney General's Office, 150 East Gay Street, 16th Floor, Columbus, OH 43215 (For Respondent).

CYNTHIA WESTCOTT RICE, J.

{¶1} Petitioner, Vincent El Alan Parker Bey, has filed a complaint for writ of habeas corpus seeking immediate release from the custody of the Warden of Trumbull Correctional Institution, Charmaine Bracy, respondent herein. Ms. Bracy filed a motion to dismiss. For the reasons discussed herein, the motion to dismiss is granted and petitioner's complaint is dismissed.

{¶2} Mr. Parker asserts that on January 29, 2003, a three-judge panel convened without a written jury waiver signed by Petitioner in violation of R.C. 2945.05 and thus did not have jurisdiction to convict him of aggravated murder in violation of R.C. 2903.01. Mr. Parker argues a writ of habeas corpus is appropriate because he “no longer has an adequate legal remedy in the ordinary course of law.”

{¶3} The Supreme Court of Ohio has upheld the following principles related to R.C. 2945.05 and .06: “‘1) the statutes require strict compliance, 2) that failure to strictly comply is error in the exercise of jurisdiction, 3) that strict compliance may not be voluntarily waived and is always reversible error on direct appeal, but 4) after direct appeal, any error is, in effect, waived and cannot be remedied through collateral attack.’” *Pratts v. Hurley*, 102 Ohio St.3d 81, 2004-Ohio-1980, ¶32.

{¶4} Thus, Mr. Parker had an adequate remedy at law: the opportunity to directly appeal his conviction, which he did. Moreover, the only appropriate remedy for failure to comply with R.C. 2945.05 is through direct appeal. *State v. Pless*, 74 Ohio St.3d 333, 339 (1996).

{¶5} Furthermore, the Supreme Court of Ohio has held that “[t]he provisions of [RC 2945.05] requiring the filing of a written waiver of a trial by jury are not applicable where a plea of guilty is entered by an accused. The failure in such an instance to file a waiver does not deprive an accused of any of his constitutional rights nor does it deprive the court of its jurisdiction.” *Martin v. Maxwell*, 175 Ohio St. 147 (1963). See also *Ashtabula v. Jones*, 11th Dist. Ashtabula No. 2016-A-0053, 2017-Ohio-1103, ¶27. Thus, even if we were to accept the facts Mr. Parker sets forth as true, we would not be able to grant him the relief requested.

{¶6} In light of the foregoing, Ms. Bracy's motion to dismiss is granted and Mr. Parker's petition for habeas corpus is dismissed.

TIMOTHY P. CANNON, J., concurs,

DIANE V. GRENDALL, J., concurs in judgment only.