

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

JOHNNY BRACK

Petitioner

-vs-

OHIO DEPARTMENT of
REHABILITATION & CORR., et al.

Respondent

JUDGES:

Hon. John W. Wise, P. J.
Hon. Patricia A. Delaney, J.
Hon. Craig R. Baldwin, J.

Case No. 2017 CA 00103

OPINION

CHARACTER OF PROCEEDING:

Writ of Habeas Corpus

JUDGMENT:

Dismissed

DATE OF JUDGMENT ENTRY:

February 5, 2018

APPEARANCES:

For Petitioner

For Respondant

JOHNNY BRACK, PRO SE
PRO SE
919 Sandal Place NE
Canton, Ohio 44704

JERRI L. FOSNAUGHT
ASSISTANT ATTORNEY GENERAL
150 East Gay Street, 16th Floor
Columbus, Ohio 43215

Wise, P. J.

{¶1} Petitioner, Johnny Brack, has filed a petition for writ of habeas corpus claiming he is entitled to release from prison because he should have been given jail credit for the time he spent on a GPS monitor. Respondent has filed a motion to dismiss.

{¶2} Petitioner has failed to attach all commitment papers as required. Revised Code 2725.04(D) provides, “(D) A copy of the commitment or cause of detention of such person shall be exhibited, if it can be procured without impairing the efficiency of the remedy; or, if the imprisonment or detention is without legal authority, such fact must appear.”

{¶3} A “[h]abeas corpus petitioner's failure to attach pertinent commitment papers to his petition rendered petition fatally defective, and petitioner's subsequent attachment of commitment papers to his post-judgment motion did not cure the defect.” *Boyd v. Money*, 82 Ohio St.3d 388, 1998 -Ohio- 221, 696 N.E.2d 568.

{¶4} Further, the Supreme Court has held habeas corpus does not lie to challenge jail time credit, “[Petitioner] had an adequate remedy by appeal to raise any error by the trial court in calculating his jail-time credit. *State ex rel. Rudolph v. Horton*, 119 Ohio St.3d 350, 2008–Ohio–4476, 894 N.E.2d 49, ¶ 3.” *Hughley v. Saunders*, 123 Ohio St.3d 446, 2009–Ohio–5585, 917 N.E.2d 270, ¶ I.

{¶5} Because the petition is fatally defective due to the failure to attach the required commitment papers and because habeas corpus cannot be used to challenge jail time credit, the petition is dismissed.

By: Wise, P. J.

Delaney, J., and

Baldwin, J., concur.

JWW/d 0126