

COURT OF APPEALS
RICHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

DAJUAN MIDGETT	:	JUDGES:
	:	
Petitioner	:	Hon. John W. Wise, P.J.
	:	Hon. Patricia A. Delaney, J.
	:	Hon. Earle E. Wise, Jr., J.
-vs-	:	
	:	
RICHLAND COUNTY SHERIFF	:	Case No. 20CA41
	:	
Respondent	:	<u>O P I N I O N</u>

CHARACTER OF PROCEEDING: Writ of Habeas Corpus

JUDGMENT: Dismissed

DATE OF JUDGMENT ENTRY: May 14, 2020

APPEARANCES:

For Petitioner:

Dajuan Midgett - #57301
13 East 2nd Street
Mansfield, Ohio 44902

For Respondent:

Joseph C. Snyder
Assistant Prosecutor
Richland County Prosecutor's Office
38 South Park Street, Second Floor
Mansfield, Ohio 44902

Delaney, J.

{¶1} On May 4, 2020, Petitioner, Dajuan Midgett, filed a Petition for Writ of Habeas Corpus against Respondent, Richland County Sheriff. Mr. Midgett claims he is being restrained of his liberty by the Richland County Sheriff, Steve Sheldon. (Petition at ¶ 1) Mr. Midgett further asserts he is being “unlawfully detained, in contrast to the Ohio Revised Code 2945.71.” (*Id.* at ¶ 3) Mr. Midgett asks the Court to issue a writ of habeas corpus on his behalf.

{¶2} Due to the following deficiencies, Mr. Midgett’s petition is not sufficient to maintain an action for habeas corpus and his petition is sua sponte dismissed. First, the petition is not verified as required by R.C. 2725.04. The failure to verify the petition requires dismissal. *State v. Vore*, 91 Ohio St.3d 323, 327, 744 N.E.2d 763 (2001); *State ex rel. Crigger v. Ohio Adult Parole Auth.*, 82 Ohio St.3d 270, 272, 695 N.E.2d 254 (1998). Second, Mr. Midgett did not comply with R.C. 2725.04(D), which requires a copy of the commitment or cause of detention be attached to the petition for writ of habeas corpus. Without the commitment papers, the writ of habeas corpus is fatally defective. *Brown v. Rogers*, 72 Ohio St.3d 339, 341, 650 N.E.2d 422 (1995).

{¶3} For the foregoing reasons, we sua sponte dismiss Mr. Midgett's Petition for Writ of Habeas Corpus. The clerk of courts is hereby directed to serve upon all parties not in default notice of this judgment and its date of entry upon the journal. See Civ.R. 58(B).

CAUSE SUA SPONTE DISMISSED.

COSTS TO PETITIONER

IT IS SO ORDERED.

By Delaney, J.

Wise, P.J. and

Wise, Jr., Earle, J. concur.

[Cite as *Midgett v. Richland Cty. Sheriff*, 2020-Ohio-2966.]