

PRATHER, APPELLANT, v. BRIGANO, WARDEN, APPELLEE.

[Cite as *Prather v. Brigano*, 1999-Ohio-212.]

Habeas corpus to compel relator's immediate release from Warren Correctional Institution—Dismissal of writ affirmed, when—Speedy-trial claim not cognizable in habeas corpus.

(No. 99-539—Submitted August 25, 1999—Decided September 29, 1999.)

APPEAL from the Court of Appeals for Warren County, No. CA99-01-009.

{¶ 1} In January 1999, appellant, Gregory L. Prather, filed a petition in the Court of Appeals for Warren County for a writ of habeas corpus to compel appellee, Warden Anthony Brigano of the Warren Correctional Institution, to immediately release him from prison. Prather claimed that he was entitled to the writ because his trial court failed to comply with the statutory speedy-trial requirements. Prather did not attach a copy of his commitment papers to his petition. The court of appeals granted Brigano's Civ.R. 12(B)(6) motion and dismissed the petition for failure to state a claim upon which relief can be granted.

{¶ 2} This cause is now before the court upon an appeal as of right.

Gregory L. Prather, pro se.

Betty D. Montgomery, Attorney General, and *D.J. Hildebrandt*, Assistant Attorney General, for appellee.

Per Curiam.

{¶ 3} The court of appeals did not err in dismissing Prather's habeas corpus petition. Prather's speedy-trial claim is not cognizable in habeas corpus. *State ex rel. Brantley v. Ghee* (1997), 80 Ohio St.3d 287, 288, 685 N.E.2d 1243, 1244. In

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addition, Prather did not attach his commitment papers to his petition. *Tucker v. McAninch* (1998), 82 Ohio St.3d 423, 696 N.E.2d 595, 596. Based on the foregoing, we affirm the judgment of the court of appeals.

Judgment affirmed.

MOYER, C.J., DOUGLAS, RESNICK, F.E. SWEENEY, PFEIFER, COOK and
LUNDBERG STRATTON, JJ., concur.
