

GALLOWAY, APPELLANT, v. MONEY, WARDEN, APPELLEE.

[Cite as *Galloway v. Money*, 100 Ohio St.3d 74, 2003-Ohio-5060.]

Habeas corpus sought to compel relator's release from prison — Court of appeals' dismissal of petition affirmed.

(No. 2003-1085 — Submitted September 17, 2003 — Decided October 8, 2003.)

APPEAL from the Court of Appeals for Marion County, No. 9-03-16.

Per Curiam.

{¶1} In February 1990, the Lucas County Court of Common Pleas convicted appellant, James Galloway, of three counts of rape and two counts of gross sexual imposition and sentenced him to prison. On appeal, his convictions and sentence were affirmed. *State v. Galloway* (Nov. 8, 1991), Lucas App. No. L-90-056, 1991 WL 254216.

{¶2} According to Galloway, he filed a petition for a writ of habeas corpus in January 2000 in the common pleas court, and his petition was subsequently denied.

{¶3} In April 2003, Galloway filed a petition for a writ of habeas corpus in the Court of Appeals for Marion County. Galloway claimed that his trial court lacked jurisdiction to convict and sentence him because of ambiguities in his indictments. Galloway further claimed, among other things, that he was actually innocent of the crimes of which he was convicted.

{¶4} In May 2003, the court of appeals sua sponte dismissed Galloway's petition.

{¶5} We affirm the judgment of the court of appeals.

{¶6} The court of appeals correctly concluded that Galloway's primary claims were not cognizable in habeas corpus. See *Turner v. Ishee*, 98 Ohio St.3d

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411, 2003-Ohio-1671, 786 N.E.2d 54, ¶ 7 (“habeas corpus is not available to test the validity or sufficiency of an indictment or other charging instrument”); *State ex rel. Bruggeman v. Leonard* (1999), 86 Ohio St.3d 298, 299, 714 N.E.2d 921 (“Habeas corpus will not issue to raise claims of insufficiency of evidence”).

{¶7} Moreover, res judicata barred Galloway from filing successive habeas corpus petitions when he could have raised the same claims in his previous petition. *State ex rel Johnson v. Ohio Dept. of Rehab. & Corr.* (2002), 95 Ohio St.3d 70, 71, 765 N.E.2d 356.

{¶8} Therefore, we affirm the judgment of the court of appeals.

Judgment affirmed.

MOYER, C.J., RESNICK, F.E. SWEENEY, PFEIFER, LUNDBERG STRATTON,
O’CONNOR and O’DONNELL, JJ., concur.

James Galloway, pro se.

Jim Petro, Attorney General, and Stuart A. Cole, Assistant Attorney
General, for appellee.
