

PAYNE, APPELLANT, v. JEFFREYS, WARDEN, APPELLEE.

[Cite as *Payne v. Jeffreys*, 109 Ohio St.3d 239, 2006-Ohio-2288.]

Appeal from dismissal of a petition for a writ of habeas corpus — Habeas corpus is not available to challenge the validity or sufficiency of an indictment — Judgment affirmed.

(No. 2005-1915 — Submitted April 11, 2006 — Decided May 24, 2006.)

APPEAL from the Court of Appeals for Marion County, No. 9-05-27.

Per Curiam.

{¶ 1} This is an appeal from a judgment dismissing a petition for a writ of habeas corpus.

{¶ 2} In July 2005, appellant, inmate Sir Lawrence E. Payne, filed a petition in the Court of Appeals for Marion County for a writ of habeas corpus to compel appellee, his warden, Rob Jeffreys, to release him from prison. Payne claimed that he was entitled to the writ because his indictment violated R.C. 2939.20 and thereby rendered the indictment “of no legal force.”

{¶ 3} On September 8, 2005, the court of appeals dismissed the petition because “[h]abeas corpus is not available to challenge either the validity or the sufficiency of an indictment.”

{¶ 4} In his appeal as of right, Payne asserts that the court of appeals erred in dismissing his petition. He claims that habeas corpus is appropriate because his indictment violated R.C. 2939.20, which requires the foreman of the grand jury to “indorse on such indictment the words ‘A true bill’ and subscribe his name as foreman.” We affirm the judgment of the court of appeals.

{¶ 5} Notwithstanding Payne’s assertions to the contrary, his claim attacks the validity and sufficiency of his indictment and should have been raised

on direct appeal of his criminal conviction and sentence rather than in habeas corpus. See *Thornton v. Russell* (1998), 82 Ohio St.3d 93, 94, 694 N.E.2d 464 (claim that indictment was void because the grand-jury foreman did not manually endorse that the indictment was a true bill); *Malone v. Lane*, 96 Ohio St.3d 415, 2002-Ohio-4908, 775 N.E.2d 527, ¶ 1, 4 (claims that there was no endorsement that the indictment was a true bill and that the grand jury did not certify the indictment).

{¶ 6} Moreover, Payne’s indictment satisfied R.C. 2939.20, since the words “a true bill” were in a preprinted indictment form and the grand-jury foreman subscribed his name as foreman under that endorsement. See *Ruch v. State* (1924), 111 Ohio St. 580, 585, 146 N.E. 67; *Key v. State*, Franklin App. No. 04AP-113, 2004-Ohio-5341, 2004 WL 2898757, ¶ 7-10.

Judgment affirmed.

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

Sir Lawrence E. Payne, pro se.

Jim Petro, Attorney General, and Diane Mallory, Assistant Attorney General, for appellee.
