

MITCHELL, APPELLANT, v. SMITH, WARDEN, APPELLEE.

[Cite as *Mitchell v. Smith*, 120 Ohio St.3d 278, 2008-Ohio-6108.]

Habeas corpus is not a remedy for violation of Crim.R. 32(C).

(No. 2008-1521—Submitted November 19, 2008—Decided December 2, 2008.)

APPEAL from the Court of Appeals for Marion County, No. 9-08-16.

Per Curiam.

{¶ 1} We affirm the judgment of the court of appeals dismissing the petition of appellant, Ervin L. Mitchell, for a writ of habeas corpus because a claimed violation of Crim.R. 32(C) does not entitle an inmate to immediate release from prison. Instead, if a violation is established, “the appropriate remedy is resentencing instead of outright release.” *McAllister v. Smith*, 119 Ohio St.3d 163, 2008-Ohio-3881, 892 N.E.2d 914, ¶ 9.¹

Judgment affirmed.

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

Ervin L. Mitchell, pro se.

Nancy Hardin Rogers, Attorney General, and William H. Lamb, Assistant
Attorney General, for appellee.

1. We deny Mitchell’s motion for oral argument.