

**IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
ASHTABULA COUNTY, OHIO**

STATE ex rel. JAMES R. HANDWORK,	:	PER CURIAM OPINION
Petitioner,	:	
- vs -	:	CASE NO. 2012-A-0018
BERRY GOODRICH, WARDEN,	:	
Respondent.	:	

Original Action for Writ of Habeas Corpus.

Judgment: Petition dismissed.

James R. Handwork, pro se, PID: A440603, Lake Erie Correctional Institution, P.O. Box 8000, Conneaut, OH 44030 (Petitioner).

Berry Goodrich, Warden, pro se, Lake Erie Correctional Institution, P.O. Box 8000, Conneaut, OH 44030 (Respondent).

PER CURIAM.

{¶1} This matter is before the court pursuant to the petition for writ of habeas corpus filed by relator, James R. Handwork, against respondent, Berry Goodrich, Warden of the Lake Erie Correctional Institution. For the reasons that follow, we sua sponte dismiss relator's petition.

{¶2} The statement of facts that follows is derived from the allegations in the petition and the exhibits attached thereto.

{¶3} On August 12, 2002, relator went to a bar in Alliance, Ohio, looking for a “date.” Lasonya Young arrived at the bar that evening. While there, relator approached her. They talked and he bought her drinks. At approximately 9:00 p.m., Young left with relator and got into his car with him. Relator drove them away from the bar.

{¶4} On August 13, 2002, a hunter found Young's body in a remote area in Portage County, Ohio, near the Portage-Stark County line. The hunter notified the Stark County Sheriff's Office. Stark County deputies went to the scene and, upon determining the body was in Portage County, notified the Portage County Sheriff's Office. Because Alliance was the closest city to where the body was found, the Portage County detectives assigned to the case went to the Alliance Police Department to seek the victim's identification. Alliance police officers identified the body as that of Lasonya Young.

{¶5} Portage County detectives interviewed patrons of the bar. Several witnesses stated they saw relator in the bar on August 12, 2002. One witness said he saw a car drive around the block near the bar several times that evening and saw Young get into the car. The witness memorized the vehicle's license plate. The detectives determined the car was owned by relator. The detectives located and interviewed him.

{¶6} At first relator denied any knowledge of, or involvement in, Young's murder. Then, after the detectives showed him pictures of Young's body, relator admitted being with her on the evening of August 12. He said that he had met Young at a bar, that Young had propositioned him, that he had declined, but that he gave her a ride to another bar.

{¶7} In subsequent statements, however, relator admitted to a more active role in Young's demise. He admitted giving her a ride in his car, having sex with her, fighting with her over \$20, punching her in the face, cutting her throat with a knife, stabbing her several times, leaving her lying on the ground, driving away, throwing away the murder weapon, and later washing his car with bleach.

{¶8} Relator was indicted on three counts of murder. He was charged with purposely causing the death of another, in violation of R.C. 2903.02(A) (count one); causing the death of another as a proximate result of committing felonious assault by inflicting serious physical harm, in violation of R.C. 2903.02(B) and 2903.11(A)(1) (count two); and causing the death of another as a proximate result of committing felonious assault with a deadly weapon, in violation of R.C. 2903.02(B) and 2903.11(A)(2) (count three). A jury found relator guilty on all counts. The trial court merged counts two and three with count one for purposes of sentencing, and the court sentenced relator to fifteen years to life.

{¶9} Relator appealed his conviction, arguing that the trial court erred by admitting into evidence certain photographs, by allowing prosecutorial misconduct, by excluding character evidence of the victim, and by entering judgment on a verdict that, he alleged, was against the manifest weight of the evidence. This court affirmed relator's conviction in *State v. Handwork*, 11th Dist. No. 2002-P-0134, 2004-Ohio-6181, discretionary appeal not allowed by 105 Ohio St.3d 1464, 2005-Ohio-1024.

{¶10} Relator alleges he is being unlawfully restrained at the Lake Erie Correctional Institution, and he seeks a writ of habeas corpus to compel respondent to release him. He alleges he is entitled to a writ for two reasons: First, he alleges that

the trial court did not have subject matter jurisdiction over this matter. Second, he alleges the trial court erred by sentencing him for crimes that were allied offenses of similar import. For the reasons that follow, relator is not entitled to the writ he seeks.

{¶11} Habeas corpus is an available remedy only in “certain extraordinary circumstances where there is an unlawful restraint of a person’s liberty * * *, but only where there is no adequate legal remedy, e.g., appeal * * *.” *State ex rel. Jackson v. McFaul*, 73 Ohio St.3d 185, 186 (1995), citing *State ex rel. Pirman v. Money*, 69 Ohio St.3d 591, 593 (1994). “Additionally, habeas corpus lies only if the petitioner is entitled to immediate release from confinement.” *McFaul, supra*, at 188, citing *Pewitt v. Lorain Corr. Inst.*, 64 Ohio St.3d 470, 472 (1992); R.C. 2725.17.

{¶12} A court may sua sponte dismiss a petition for an extraordinary writ for failure to state a claim upon which relief can be granted if the petition is frivolous or the claimant obviously cannot prevail on the facts alleged in the petition. *Hill v. Kelly*, 11th Dist. No. 2011-T-0094, 2011-Ohio-6341, ¶4, citing *State ex rel. Thompson v. Spon*, 83 Ohio St.3d 551, 553 (1998); *State ex rel. Bruggeman v. Ingraham*, 87 Ohio St.3d 230, 231 (1999).

{¶13} Under his jurisdiction issue, relator alleges the Portage County Court of Common Pleas lacked jurisdiction because the crime was committed in Stark County, not Portage County. Relator is confusing territorial jurisdiction and venue. Because relator is alleging his crimes were committed in a different county, not a different state, he is really challenging venue in the trial court, not the court’s jurisdiction. An Ohio county common pleas court has territorial jurisdiction of all felonies committed within the boundaries of Ohio. R.C. 2901.11(A)(1) (a person may be tried for an offense in Ohio if

he commits any element of the offense within Ohio's boundaries). On the other hand, it is well settled that venue is *not* a jurisdictional issue and that it *can* be waived. *State v. Otto*, 7th Dist. No. 97-BA-57, 2001 Ohio App. LEXIS 1098, *3 (Mar. 7, 2001). Moreover, a challenge to venue must be raised before trial begins; otherwise, it is deemed waived. *Id.* Because appellant could have, but failed to, object to venue in the trial court, the issue is waived. Further, because he could have, but failed to, raise the issue on direct appeal, the issue is barred by res judicata. In any event, appellant's argument lacks merit because he concedes in his petition that the Portage County Sheriff's Office detectives testified the crime occurred in Portage County. Evidence was therefore before the jury that would have supported venue in Portage County.

{¶14} Second, with respect to relator's allied offenses issue, he alleges that after the jury found him guilty of all three counts, the trial court erred by convicting him of each. He further alleges he was convicted of allied offenses of similar import, in violation of R.C. 2941.25(A), and that his conviction violated double jeopardy, entitling him to a writ. Because relator failed to raise the issue on direct appeal, it is barred by res judicata. In any event, even if the issue was not waived or barred by res judicata, relator's contention would lack merit. As indicated in this court's decision in *Handwork*, *supra*, which relator attached as an exhibit to his petition, after the jury found him guilty of all three homicide counts, the trial court merged counts two and three with count one for purposes of sentencing, and the court sentenced relator on only count one to a term of 15 years to life. *Id.* at ¶12. Thus, relator was not convicted of allied offenses of similar import.

{¶15} Based on the allegations of relator's petition, he had an adequate remedy at law by way of a direct appeal. *Jackson, supra*. Further, he obviously cannot prevail on the facts alleged in his pleading. *Hill, supra*. As a result, there are no circumstances in which a writ of habeas corpus would properly lie.

{¶16} Accordingly, we sua sponte dismiss relator's request for a writ of habeas corpus.

DIANE V. GRENDALL, J., CYNTHIA WESTCOTT RICE, J., MARY JANE TRAPP, J.,
concur.