

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

BRYAN D. KNEUSS,	:	<b>PER CURIAM OPINION</b>
Petitioner,	:	
- vs -	:	<b>CASE NO. 2015-A-0004</b>
BRIGHAM SLOAN, WARDEN,	:	
Respondent.	:	

Original Action for Writ of Habeas Corpus.

Judgment: Petition dismissed.

*Bryan D. Kneuss*, pro se, PID: A642-164, Lake Erie Correctional Institution, P.O. Box 8000, 501 Thompson Road, Conneaut, OH 44030 (Petitioner).

*Mike DeWine*, Ohio Attorney General, and *Maura O'Neill Jaite*, Senior Assistant Attorney General, Criminal Justice Section, 150 East Gay Street, 16th Floor, Columbus, OH 43215 (For Respondent).

PER CURIAM.

{¶1} Bryan D. Kneuss petitions this court for a writ of habeas corpus, pursuant to R.C. 2725 and Article IV, §3(B)(1) of the Ohio Constitution, asserting that he is entitled to an immediate release from incarceration. In his petition, Mr. Kneuss argues he is entitled to release because of the following: ineffective assistance of counsel, improper bindover, defective guilty plea, conviction against the manifest weight of the evidence, and insufficiency of the evidence. On April 23, 2013, Mr. Kneuss, with the

assistance of counsel, pled guilty to one count of the indictment charging him with the offense of aggravated arson with a forfeiture specification, in violation of R.C. 2909.02(A)(1), a first-degree felony; and to one count of illegal manufacture/cultivation of marijuana, in violation of R.C. 2925.04(A), a second-degree felony. The trial court sentenced Mr. Kneuss to four years in prison on each charge, to be served concurrently.

{¶2} At no time did Mr. Kneuss challenge his conviction or sentence via a direct appeal or post-conviction motion for relief. Instead, he filed this petition for a writ of habeas corpus. We issued an alternative writ, and the respondent filed a motion to dismiss pursuant to Civ.R. 12(B)(6) or Civ.R. 56(C).

{¶3} “[W]hen a party files a motion to dismiss for failure to state a claim, all the factual allegations of the complaint must be taken as true and all reasonable inferences must be drawn in favor of the non-moving party.” *Byrd v. Faber*, 57 Ohio St.3d 56, 60 (1991).

{¶4} Habeas corpus is an available remedy only in “certain extraordinary circumstances where there is an unlawful restraint of a person’s liberty, notwithstanding the fact that only nonjurisdictional issues are involved, but only where there is no adequate legal remedy, e.g., appeal or postconviction relief.” *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.” *Id.* at 188, citing *Pewitt v. Lorain Corr. Inst.*, 64 Ohio St.3d 470, 472 (1992) and R.C. 2725.17.

{¶5} All of Mr. Kneuss's claims are not cognizable under a petition for habeas corpus. He had an adequate remedy at law in the form of a direct appeal and a post-conviction motion for relief to raise such alleged errors.

{¶6} We find no reason that he is entitled to the extraordinary and extreme form of relief requested, i.e. immediate release from the custody of the state. Therefore, viewing the allegations in the light most favorable to Mr. Kneuss, we find that he has failed to state a claim upon which relief can be granted. See, e.g., *Manns v. Gansheimer*, 117 Ohio St.3d 251, 2008-Ohio-851, ¶6 (plea irregularities are not jurisdictional in nature and thus are not cognizable claims under habeas corpus); *Jones v. Kelley*, 11th Dist. Trumbull No. 2010-T-0020, 2010-Ohio-3682, ¶11 (manifest weight and sufficiency claims cannot be reviewed as part of a habeas corpus proceeding as such issues can be raised via direct appeal). Therefore, the respondent's motion to dismiss is well taken.

{¶7} Additionally, pursuant to Civ.R. 10(A), a petitioner must include the addresses of all parties, including his own, in the case caption. Failure to do so renders a habeas petition deficient and is cause for dismissal. See, e.g., *State ex rel. Sherrills v. State*, 91 Ohio St.3d 133 (2001); *State ex rel. Keener v. Village of Amberley*, 80 Ohio St.3d 292 (1997). Mr. Kneuss failed to include the required addresses and improperly captioned the petition.

{¶8} Consistent with the foregoing discussion, it is the order of this court that Mr. Kneuss' habeas corpus petition, as filed on January 16, 2015, is hereby dismissed in its entirety.

TIMOTHY P. CANNON, P.J., DIANE V. GREDELL, J., THOMAS R. WRIGHT, J.,  
concur.