

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

HENRY J. HARRIS,	:	PER CURIAM OPINION
Petitioner,	:	
- vs -	:	CASE NO. 2014-T-0089
CHRISTOPHER LAROSE, WARDEN,	:	
Respondent.	:	

Original Action for Writ of Habeas Corpus.

Judgment: Petition dismissed or, in the alternative, denied.

Henry J. Harris, pro se, PID: A653-715, Trumbull Correctional Institution, P.O. Box 901, 5701 Burnett Road, Leavittsburg, OH 44430-0901 (Petitioner).

Mike DeWine, Ohio Attorney General, State Office Tower, 30 East Broad Street, 25th Floor, Columbus, OH 43215 (For Respondent).

PER CURIAM.

{¶1} On October 8, 2014, petitioner, Henry J. Harris, seeks a writ of habeas corpus for immediate release from imprisonment from Trumbull Correctional Institution, Leavittsburg, Ohio. For the reasons that follow, the action is dismissed.

{¶2} Pursuant to a May 8, 2014 journal entry, petitioner is currently serving a 10-month sentence as a result of a plea of guilty and judgment of conviction entered in the Cuyahoga County Court of Common Pleas for drug possession. See *State v. Harris*, Case No. CR-10-540550-A. Petitioner was given jail-time credit for 68 days.

{¶3} Using a Federal 28 U.S.C. Section 2254 habeas petition form, petitioner claimed he was being unlawfully detained as a result of the ineffective assistance of trial counsel; an illegal search and seizure; an erroneous probation violation determination; lack of *Miranda* warnings; a violation of his speedy trial rights; and his contention that the trial court had a “vendetta” against him.

{¶4} On October 24, 2014, respondent, Christopher LaRose, Warden for the Trumbull Correctional Institution, filed a motion for summary judgment, attaching various exhibits in support of the motion. Petitioner did not file a memorandum in response.

{¶5} Most commonly, a petition for a writ of habeas corpus challenges the jurisdiction of the sentencing court. *State ex rel. Jackson v. McFaul*, 73 Ohio St.3d 185, 187 (1995). Under extraordinary circumstances, however, the petition may attack nonjurisdictional issues, but only if there is no other “adequate legal remedy, e.g., appeal or postconviction relief.” *Id.* at 186. Accordingly, in order to be entitled to the issuance of a writ of habeas corpus, the petitioner in such an action must be able to demonstrate a jurisdictional error or the unlawful restraint of a person's liberty and the lack of any adequate remedy in the ordinary course of the law. *See State ex rel. Kanaga v. Lawson*, 11th Dist. Lake No. 2009-L-106, 2010-Ohio-321, ¶23; *Stahl v. Shoemaker*, 50 Ohio St.2d 351 (1977).

{¶6} Preliminarily, a review of the trial court’s sentencing entry as well as respondent’s motion for summary judgment, indicates he was due to be released on December 25, 2014. That petitioner did not file a memorandum in response to respondent’s motion adds support to this point. To the extent petitioner is no longer

imprisoned, his petition is rendered moot. On this basis alone, the petition must be dismissed.

{¶7} Even, assuming arguendo, petitioner remains incarcerated, however, each of the grounds he raises could have been asserted either on direct appeal of his conviction or in a petition for post-conviction relief. Because petitioner asserts no jurisdictional flaws and he had adequate remedies at law for each of his nonjurisdictional challenges, the underlying petition for habeas corpus must fail. We therefore conclude, even if petitioner is still incarcerated, there are no genuine issues of material fact to be litigated and respondent would be entitled to judgment as a matter of law. In this respect, respondent's motion for summary judgment is granted.

{¶8} For the following reasons, the petition is dismissed or, in the alternative, denied.

CYNTHIA WESTCOTT RICE, J., THOMAS R. WRIGHT, J., COLLEEN MARY O'TOOLE, J., concur.