

[Cite as *Morris v. Brigano*, 2003-Ohio-819.]

IN THE COURT OF APPEALS  
TWELFTH APPELLATE DISTRICT OF OHIO  
WARREN COUNTY

|                          |   |                        |
|--------------------------|---|------------------------|
| ANDRE D. MORRIS III,     | : |                        |
| Petitioner-Appellant,    | : | CASE NO. CA2002-09-088 |
|                          | : |                        |
| -vs-                     | : | <u>O P I N I O N</u>   |
|                          | : | 2/24/2003              |
|                          | : |                        |
| ANTHONY BRIGANO, WARDEN, | : |                        |
| Respondent-Appellee.     | : |                        |

CIVIL APPEAL FROM COMMON PLEAS COURT

Andre Morris, Inmate No. A291-775, Warren Correctional Institution, P.O. Box 120, Lebanon, OH 45036, pro se

Betty D. Montgomery, Ohio Attorney General, Mark J. Zemba, State Office Building, 11<sup>th</sup> Floor, 615 W. Superior Avenue, Cleveland, OH 44113-1899, for respondent-appellee

**POWELL, J.**

{¶1} Petitioner-appellant, Andre D. Morris III, appeals the dismissal of his two petitions seeking habeas corpus relief.

{¶2} In 1994, appellant was convicted of involuntary manslaughter and felonious assault following a jury trial in the Cuyahoga County Court of Common Pleas and sentenced to a prison

term of ten to 25 years.<sup>1</sup> Appellant's convictions and sentence were affirmed on direct appeal. See State v. Morris (1995), 105 Ohio App.3d 552.

{¶3} Appellant now claims the common pleas court: improperly applied the doctrine of res judicata; violated his rights to due process and equal protection; and failed to adjudicate his "issues" in violation of his constitutional rights when it denied his request for a writ of habeas corpus.<sup>2</sup>

{¶4} Habeas corpus is generally appropriate in a criminal context only if the petitioner is entitled to immediate release from prison. Larsen v. State, 92 Ohio St.3d 69, 2001-Ohio-133; Douglas v. Money, 85 Ohio St.3d 348, 1999-Ohio-381. Appellant has not demonstrated that he is entitled to immediate release since he has yet to serve the maximum term imposed by the sentencing court.

{¶5} Moreover, the claims presented in the petitions below could have been raised either on direct appeal or in appellant's prior habeas action.<sup>3</sup> Since they were not, the lower court properly dismissed them as being barred by res judicata. See Freeman v. Tate, 65 Ohio St.3d 440, 1992-Ohio-76; State ex rel. Maloney v. Mack (Aug. 3, 1998), Madison App. No. CA98-03-014.

---

1. The trial court did not impose any sentence for the assault charge.

2. We construe these "issues" as appellant's assignments of error. Shortly after this case was scheduled to be submitted, appellant filed a "supplemental issue" for review in which he asks this court to order the Adult Parole Authority to grant him a new parole hearing.

3. The Richland County Court of Appeals denied appellant's previous petition for a writ of habeas corpus. See State v. Morris (Apr. 6, 2000), Richland App. No. 00CA21.

{¶6} Finding no error in the common pleas court's decision to deny appellant's two petitions for a writ of habeas corpus, we accordingly overrule appellant's assignments of error, including the one presented in his supplemental filing.

Judgment affirmed.

YOUNG, P.J., and WALSH, J., concur.

[Cite as *Morris v. Brigano*, 2003-Ohio-819.]