

**IN THE COURT OF APPEALS
THIRD APPELLATE DISTRICT
MARION COUNTY**

JOHN ROLF VINCER

PETITIONER-APPELLANT

CASE NO. 9-02-32

v.

ROBERT BAYLES, DIRECTOR

OPINION

RESPONDENT-APPELLEE

CHARACTER OF PROCEEDINGS: Criminal Appeal from Common Pleas Court.

JUDGMENT: Judgment Affirmed.

DATE OF JUDGMENT ENTRY: October 10, 2002

ATTORNEYS:

**JOHN R. VINCER
In Propria Persona
1514 Victory Road
Marion, Ohio 43302
For Appellant**

**ROBERT BAYLES, DIRECTOR
M.C.C.C.
1514 Victory Road
Marion, Ohio 43302
For Appellee**

BRYANT, J.

{¶1} Petitioner-appellant John R. Vincer (“Vincer”) brings this appeal from the judgment of the Marion County Court of Common Pleas dismissing his petition for habeas corpus relief.

{¶2} On April 3, 2002, Vincer was indicted in Marion County Court of Common Pleas Case No. 02-CR-0105. After arraignment, bail was set at \$150,000.00 cash or corporate bond. As of the filing of this appeal, bail has not been met. In addition, Vincer is being held pursuant to a request for extradition filed by Arkansas. On April 15, 2002, Vincer filed a petition for a writ of habeas corpus. The trial court dismissed this petition as moot on May 2, 2002. It is from this judgment that Vincer appeals.

{¶3} Although Vincer’s brief is not specific, we believe his assignment of error to be that the trial court erred in dismissing his petition as moot rather than ruling on the merits of his claims.

{¶4} Vincer’s petition for a writ of habeas corpus makes several allegations of violations of due process and the criminal rules concerning the extradition request from Arkansas. Notably, Vincer claims that the proper procedures for making an arrest on a request for extradition were not filed, that he was denied counsel at the arraignment hearing, and that he has been detained for an extensive period of time without formal charges being filed. These allegations,

if true, could possibly provide a basis for relief, however we do not have either a docket sheet or a transcript of the hearing concerning these matters and therefore have nothing to review to determine the existence of or want of support for Vincer's allegations.

{¶5} However, the limited record before us discloses that when Vincer's petition was filed, he was being held pursuant to an indictment on a charge of being a fugitive from justice. The trial court then held a hearing, at which counsel was present, and set bail in the amount of \$150,000.00. Vincer has neither posted bond nor challenged the conditions of the bail. Thus, Vincer is being lawfully restrained under an order of a court having jurisdiction of both his person and the subject matter of the action in which judgment was entered and for which he is held. R.C. 2929.01

{¶6} The assignment of error is overruled and the judgment of the Marion County Court of Common Pleas is affirmed.

Judgment Affirmed.

HADLEY and WALTERS, J.J., concur.