

COURT OF APPEALS
RICHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

JAMES C. BOGAN

Petitioner

-VS-

RICHARD HALL, WARDEN

Respondent

JUDGES:

Hon. W. Scott Gwin, P.J.

Hon. William B. Hoffman, J.

Hon. Julie A. Edwards, J.

Case No. 09CA100

O P I N I O N

CHARACTER OF PROCEEDING:

Writ of Habeas Corpus

JUDGMENT:

Dismissed

DATE OF JUDGMENT ENTRY:

September 2, 2009

APPEARANCES:

For Petitioner

For Respondent

JAMES C. BOGAN, PRO SE

RICI - #451-645

Post Office Box 8107

Mansfield, Ohio 44901

No Appearance.

Hoffman, J.

{¶1} Petitioner, James Bogan, has filed a Petition for Writ of Habeas Corpus. He was convicted in the Cuyahoga County Court of Common Pleas by entering guilty pleas to four counts of Gross Sexual Imposition. He was sentenced to four years in prison on each count. Three of the counts were ordered served consecutive to one another for a total prison term of twelve years.

{¶2} The Court believes the Petition is requesting habeas corpus relief based on the argument the trial court lacked subject matter jurisdiction over the underlying criminal case because “no complaint of oath of affidavit was filed with the clerk for courts of common pleas.” See Petition, Page 2.

{¶3} A “Court of Appeals [is] required to dismiss [a] petition for habeas corpus sua sponte, where [the] defendant fail[s] to verify the petition for habeas corpus, support his complaint with an affidavit specifying the details of the claim, attach a copy of commitment or cause of detention to petition, name the correct respondent, or attach an affidavit describing each civil action or appeal filed by the relator within previous five years in any state or federal court. R.C. 2725.04(B, D), 2969.25.” *Melton v. State* 2002 WL 31040689 (Ohio App. 8 Dist.).

{¶4} The Petition filed does not contain an affidavit of verification. Further, the Petition fails to include an affidavit detailing Petitioner’s prior civil actions. Petitioner’s failure to include these items requires dismissal of this case.

{¶5} Further, even if we were to address the merits, Petitioner’s complaint

would be denied. The Supreme Court has held “habeas corpus is not available when there is an adequate remedy in the ordinary course of law.” *In re Complaint for Writ of Habeas Corpus for Goeller*, 103 Ohio St.3d 427, 2004-Ohio-5579, 816 N.E.2d 594, ¶ 6. In this case, Petitioner has or had an adequate remedy at law by way of an appeal. In fact, Petitioner challenged his indictment in his appeal to the Eighth District Court of Appeals in Case Number No. 84468 wherein the appellate court affirmed the conviction.

{¶6} For these reasons, the instant Petition is dismissed.

{¶7} PETITION DISMISSED.

{¶8} COSTS TO APPELLANT.

{¶9} IT IS SO ORDERED.

By: Hoffman, J.

Gwin, P.J. and

Edwards, J. concur

s/ William B. Hoffman
HON. WILLIAM B. HOFFMAN

s/ W. Scott Gwin
HON. W. SCOTT GWIN

s/ Julie A. Edwards
HON. JULIE A. EDWARDS

IN THE COURT OF APPEALS FOR RICHLAND COUNTY, OHIO
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-vs-

RICHARD HALL, WARDEN

Respondent

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JUDGMENT ENTRY

Case No. 09CA100

For the reasons stated in our accompanying Memorandum-Opinion, for these reasons, the instant Petition is dismissed.

PETITION DISMISSED.

COSTS TO APPELLANT.

IT IS SO ORDERED.

s/ William B. Hoffman

HON. WILLIAM B. HOFFMAN

s/ W. Scott Gwin

HON. W. SCOTT GWIN

s/ Julie A. Edwards

HON. JULIE A. EDWARDS