

COURT OF APPEALS
FAIRFIELD COUNTY, OHIO
FIFTH APPELLATE DISTRICT

KEVIN HUGLEY	:	JUDGES:
	:	Hon. W. Scott Gwin, P.J.
	:	Hon. Julie A. Edwards, J.
Petitioner	:	Hon. Patricia A. Delaney, J.
	:	
-vs-	:	
	:	Case No. 09-CA-0043
WARDEN SHERRI DUFFEY	:	
	:	
	:	
Respondent	:	<u>OPINION</u>

CHARACTER OF PROCEEDING: Petition for Writ of Habeas Corpus

JUDGMENT: Writ Dismissed

DATE OF JUDGMENT ENTRY: November 16, 2009

APPEARANCES:

For Petitioner
KEVIN HUGHLEY, PRO SE
C/O S.C.I.
5900 B.I.S. Road
Lancaster, OH 43130

For Respondent
M. SCOTT CRISS
Assistant Attorney General
150 E. Gay Street, 16th Floor
Columbus, OH 43215

Gwin, P.J.

{¶1} Kevin Hughley has filed a Petition for Writ of Habeas Corpus suggesting Petitioner is entitled to immediate release because Petitioner alleges he is incarcerated pursuant to a void sentence. Respondent has filed a Motion to Dismiss.

{¶2} Petitioner has filed numerous complaints, appeals and petitions in this Court, the Supreme Court, and the Eighth District Court of Appeals challenging the imposition of a nine month prison term for a Title Offense conviction pursuant to R.C. 4505.19. All of Petitioner's challenges relative to this particular sentence have been denied, and Petitioner has been declared a vexatious litigator by the Supreme Court. Nonetheless, we will once again address Petitioner's claim.

{¶3} Petitioner avers the trial court lacked jurisdiction to impose a nine month sentence to be served in prison as opposed to local incarceration. Petitioner does not challenge the length of the sentence. His only challenge is to the location the sentence may be served.

{¶4} Petitioner raised this exact issue in *Hughley v. Southeastern Correctional Inst.* 2009 WL 2986237, 3 (Ohio App. 5 Dist.) wherein we held,

{¶5} "Because the trial court had subject matter jurisdiction, the sentence imposed is voidable rather than void. Only a void sentence may be raised by way of a Petition for Writ of Habeas Corpus." Additionally, Petitioner raised this exact issue in the Supreme Court in Case Number 09-1350. The Supreme Court also declined to issue the requested writ.

{¶6} For the reasons contained in *Hughley v. Southeastern Correctional Inst.* 2009 WL 2986237, 3 (Ohio App. 5 Dist.), we deny the instant Petition.

{¶7} MOTION TO DISMISS GRANTED.

{¶8} PETITION DISMISSED.

{¶9} COSTS TO PETITIONER.

By Gwin, P.J.,

Edwards, J., and

Delaney, J., concur

HON. W. SCOTT GWIN

HON. JULIE A. EDWARDS

HON. PATRICIA A. DELANEY

WSG:clw 1027

IN THE COURT OF APPEALS FOR FAIRFIELD COUNTY, OHIO

FIFTH APPELLATE DISTRICT

KEVIN HUGLEY

Petitioner

-VS-

WARDEN SHERRI DUFFEY

Respondent

JUDGMENT ENTRY

CASE NO. 09-CA-0043

For the reasons stated in our accompanying Memorandum-Opinion, the petition for Writ of Habeas Corpus is dismissed. Costs to Petitioner.

HON. W. SCOTT GWIN

HON. JULIE A. EDWARDS

HON. PATRICIA A. DELANEY