

[Cite as *Allen v. Muskingum Cty. Sheriff*, 2011-Ohio-3325.]

IN THE COURT OF APPEALS FOR MUSKINGUM COUNTY, OHIO
FIFTH APPELLATE DISTRICT

JOHN DALE ALLEN	:	JUDGES:
	:	Hon. John W. Wise, P.J.
Petitioner	:	Hon. Julie A. Edwards, J.
	:	Hon. Patricia A. Delaney, J.
-vs-	:	
	:	CASE NO. CT11-0023
MUSKINGUM COUNTY SHERIFF	:	
	:	<u>OPINION</u>
Respondent	:	

CHARACTER OF PROCEEDING: Petition for Writ of Habeas Corpus

JUDGMENT: WRIT DENIED

DATE OF JUDGMENT ENTRY: June 23, 2011

APPEARANCES:

For Petitioner – Pro se:

JOHN DALE ALLEN
c/o 28 N. 4th St, - SB4
Zanesville, OH 43701

For Respondent:

NO APPEARANCE

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Delaney, J.,

{¶1} Petitioner, John Dale Allen, has filed a Petition for Writ of Habeas Corpus alleging unlawful detention based upon his contention that the trial court lacked jurisdiction over Petitioner and set excessive bail. We find it unnecessary to address those claims because Appellant has failed to comply with the procedural requirements for a habeas petition.

{¶2} A review of the Petition reveals Petitioner has failed to attach the necessary commitment papers in compliance with R.C. 2725.04(D). The Supreme Court has held failure to comply with this requirement is a fatal defect which cannot be cured, “[C]ommitment papers are necessary for a complete understanding of the petition. Without them, the petition is fatally defective. When a petition is presented to a court that does not comply with R.C. 2725.04(D), there is no showing of how the commitment was procured and there is nothing before the court on which to make a determined judgment except, of course, the bare allegations of petitioner's application.” *Bloss v. Rogers* (1992), 65 Ohio St.3d 145, 602 N.E.2d 602. See also, *Boyd v. Money*, 82 Ohio St.3d 388, 696 N.E.2d 568, 1998-Ohio-221, wherein the Supreme Court held, “Habeas corpus petitioner's failure to attach pertinent commitment papers to his petition rendered petition fatally defective, and petitioner's subsequent attachment of commitment papers to his post-judgment motion did not cure the defect.” R.C. 2725.04(D).

{¶3} We likewise find failure to include all pertinent entries has made a complete understanding of the Petition impossible.

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{¶4} For this reason, Petitioner's request for Writ of Habeas Corpus is denied.

{¶5} PETITION FOR WRIT DENIED.

{¶6} COSTS TO PETITIONER.

By: Delaney, J.,
Wise, P.J., and
Edwards, J. concur

HON. PATRICIA A. DELANEY

HON. JOHN W. WISE

HON. JULIE A. EDWARDS

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FIFTH APPELLATE DISTRICT

JOHN DALE ALLEN	:	CASE NO. CT11-0023
	:	
Petitioner	:	
	:	
-vs-	:	<u>JUDGMENT ENTRY</u>
	:	
MUSKINGUM COUNTY SHERIFF	:	
	:	
Respondent	:	

For the reasons stated in the Memorandum-Opinion on file, Petitioner's Writ of Habeas Corpus is hereby denied. Costs taxes to Petitioner.

HON. PATRICIA A. DELANEY

HON. JOHN W. WISE

HON. JULIE A. EDWARDS