

COURT OF APPEALS
RICHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO, EX REL.,
LORENZO HARRISON

Petitioner

-VS-

ALAN LAZAROFF

Respondent

JUDGES:

Hon. W. Scott Gwin, P.J.
Hon. William B. Hoffman, J.
Hon. Craig R. Baldwin, J.

Case No. 14CA66

O P I N I O N

CHARACTER OF PROCEEDING:

Petition for Writ of Habeas Corpus

JUDGMENT:

Dismissed

DATE OF JUDGMENT ENTRY:

February 9, 2015

APPEARANCES:

For Petitioner

For Respondent

LORENZO W. HARRISON
#563-687
Mansfield Correctional Institution
P.O. Box 788
1150 North Main Street
Mansfield, Ohio 44901

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Hoffman, J.

{¶1} Petitioner, Lorenzo Harrison, has filed a Petition for Writ of Habeas Corpus requesting this Court order his immediate release based on several grounds. Respondent has filed a responsive brief requesting dismissal of the petition.

{¶2} Initially, we note Respondent advises many of the claims raised in the petition have been raised in a separate federal habeas petition which remains pending in federal court according to Respondent. Respondent argues the pending federal habeas petition would be a bar to the instant petition by the doctrine of res judicata. Because we have not been provided a copy of the Federal petition and have no access to the federal court records, we have chosen to address the merits of the claims.

{¶3} First, Petitioner argues he was charged and prosecuted under the “wrong provisions of the law.” Specifically, he suggests the alleged facts support a charge of sexual battery rather than rape and kidnapping. He also argues he should have been sentenced under an earlier version of the revised code which was in effect when the conduct occurred.

{¶4} An adequate remedy at law exists or existed for Petitioner to challenge his conviction and sentence. See e.g. *State v. Stricker*, 2004-Ohio-3557 cause dismissed, 2004-Ohio-7156, 104 Ohio St. 3d 1445, 820 N.E.2d 383 (Appellant argued he should have been convicted of sexual battery rather than rape). To the extent this claim challenges the indictment, habeas corpus is not available to challenge the validity or sufficiency of an indictment. *Luna v. Russell*, 1994-Ohio-264, 70 Ohio St. 3d 561, 562, 639 N.E.2d 1168, 1169.

{¶5} Next, Petitioner argues “Sham Legal Process – Prosecutor Misconduct.” Prosecutorial misconduct is not cognizable in habeas corpus. The Supreme Court has held, “[H]abeas corpus [is] unavailable to review allegations of prosecutorial misconduct. . .” *Wilson v. Rogers*, 1993-Ohio-136, 68 Ohio St. 3d 130, 131, 623 N.E.2d 1210, 1211.

{¶6} The third claim raised by Petitioner is ineffective assistance of counsel. “Claims involving the ineffective assistance of counsel or the alleged denial of the right to counsel are not cognizable in habeas corpus.” *Bozsik v. Hudson*, 2006-Ohio-4356, ¶ 7, 110 Ohio St. 3d 245, 246, 852 N.E.2d 1200, 1201.

{¶7} Petitioner’s fourth claim is his conviction is not supported by sufficient evidence. “[H]abeas corpus is not available to remedy claims concerning * * * the sufficiency of the evidence.” *State ex rel. Tarr v. Williams*, 112 Ohio St.3d 51, 2006-Ohio-6368, 857 N.E.2d 1225, ¶ 4.

{¶8} The fifth ground raised by Petitioner is that his right to a speedy trial was violated. Speedy trial claims are also not cognizable in habeas corpus. *Prather v. Brigano*, 1999-Ohio-212, 86 Ohio St. 3d 609, 610, 716 N.E.2d 197, 198.

{¶9} Finally, the sixth claim raised by petitioner is that he was subject to double jeopardy. Petitioner’s claim based on double jeopardy is likewise not cognizable in habeas corpus. *Elersic v. Wilson*, 2004-Ohio-1501, ¶ 3, 101 Ohio St. 3d 417, 805 N.E.2d 1127, 1127.

{¶10} Because petitioner has failed to allege any claim cognizable in habeas corpus, the motion to dismiss is granted.

By: Hoffman, J.

Gwin, P.J. and

Baldwin, J. concur