

IN THE COURT OF APPEALS OF LUCAS COUNTY

Donald E. Fletcher

Court of Appeals No. L-01-1483

Petitioner

v.

Khelleh Konteh [Warden]

DECISION AND JUDGMENT ENTRY

Respondent

Decided: December 21, 2001

* * * * *

Donald E. Fletcher, pro se.

* * * * *

PIETRYKOWSKI, J.

{¶1} This matter is before the court on a petition for a writ of habeas corpus. Pro se petitioner, Donald E. Fletcher, seeks a writ ordering his discharge from confinement at the Toledo Ohio Correctional Camp.

{¶2} Petitioner asserts that on July 24, 2001, Judge Frederick H. McDonald of the Lucas County Court of Common Pleas sentenced him to two concurrent six month terms of incarceration for violating the terms of his community control. Thereafter, petitioner filed with the trial court a motion for jail time credit in which he

[Cite as *Fletcher v. Konteh*, 2001-Ohio-3110.]

asserted that in the trial court's entries of July 24, 2001, the court had not credited him with all of the jail time to which he was entitled. Petitioner's petition then asserts that on November 13, 2001, the trial court vacated its six month sentence of July 24, 2001, finding that it was illegal, imposed a fourteen month sentence and granted him three hundred seventy-nine days jail time credit. Petitioner now contends that the trial court was without jurisdiction to impose upon him a harsher sentence after he had begun serving his six month term and that the court's calculation of his jail time credit was incorrect.

{¶3} R.C. 2725.04 reads in pertinent part:

{¶4} "Application for the writ of habeas corpus shall be by petition, signed and verified either by the party for whose relief it is intended, or by some person for him, and shall specify:

" ***

{¶5} "(D) A copy of the commitment or cause of detention of such person shall be exhibited, if it can be procured without impairing the efficiency of the remedy; or, if the imprisonment or detention is without legal authority, such fact must appear."

{¶6} Although appellant has attached numerous judgment entries from the trial court proceedings to his petition, he has not attached the judgment entry from November 13, 2001. Accordingly, he has failed to attach the pertinent commitment papers to his petition. "These commitment papers are necessary for a complete understanding of the petition. Without them, the petition is fatally defective." Bloss v. Rogers (1992), 65 Ohio St.3d 145, 146.

[Cite as *Fletcher v. Konteh*, 2001-Ohio-3110.]

{¶7} The petition for habeas corpus is therefore dismissed at petitioner's cost.

WRIT DISMISSED.

Peter M. Handwork, J.

JUDGE

Richard W. Knepper, J.

JUDGE

Mark L. Pietrykowski, J.
CONCUR.

JUDGE