

[Cite as *In re Complaint for a Writ of Habeas Corpus for Andrew D.*, 2001-Ohio-4393.]

IN THE COURT OF APPEALS OF ERIE COUNTY

In the Matter of the
Complaint for a Writ of
Habeas Corpus for
Andrew D., a minor

Court of Appeals No. E-01-051

and

Robert and Monica D.
Parents and Natural Guardians
of Andrew D.

Petitioners

DECISION AND JUDGMENT ENTRY

Decided: November 21, 2001

* * * * *

John F. Kirwan, for petitioners.

* * * * *

SHERCK, J.

{¶1} This matter is before the court on the petition of Andrew D. and his parents, Robert and Monica D., for a writ of habeas corpus.

{¶2} Petitioners allege that Andrew D., a juvenile, is being held in the Erie County Detention Home, "Pursuant [sic] to no Order of Court or warrant." Yet, attached to their petition is a judgment entry of the Erie County Court of Common Pleas, Juvenile Division, ordering Andrew's detention, pending an adjudicatory hearing on sexual imposition allegations.

{¶3} R.C. 2725.05 provides;

{¶4} "If it appears that a person alleged to be restrained of his liberty is in the custody of an officer under process issued by a court or magistrate, or by virtue of the judgment or order of a court of record, and that the court or magistrate had jurisdiction to issue the process, render the judgment, or make the order, the writ of habeas corpus shall not be allowed. If the jurisdiction appears after the writ is allowed, the person shall not be discharged by reason of any informality or defect in the process, judgment, or order."

{¶5} Andrew is a juvenile, so the jurisdiction of the Juvenile Division is proper. As petitioner's own exhibit demonstrates, Andrew is being held under the order of a court of record. Consequently, petitioner's request for the writ is deficient on its face. Accordingly, the petition before us is, hereby, dismissed at petitioners costs.

WRIT DISMISSED.

Melvin L. Resnick, J.

James R. Sherck, J.

Richard W. Knepper, J.
CONCUR.

JUDGE

JUDGE

JUDGE