

[Cite as *Baxter v. Patton*, 2003-Ohio-1995.]

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
ERIE COUNTY

In re: Edward J. Baxter

Court of Appeals No. E-03-014

Petitioner

v.

John Patton and James Gutierrez

DECISION AND JUDGMENT ENTRY

Respondents

Decided: April 11, 2003

* * * * *

Edward J. Baxter, pro se.

* * * * *

KNEPPER, J.

{¶1} This matter is before the court on the petition of Edward J. Baxter for a writ of habeas corpus.

{¶2} Petitioner, who was released on bond on June 7, 2002, following his indictment on 81 counts of extortion, intimidation and falsification, asserts that being under indictment is causing him to be "illegally restrained." He argues that respondents Judge Patton and Huron County Special Prosecutor Gutierrez are depriving him of his liberties by forcing him to respond to "sham legal proceedings" and "post bond to secure his liberty."

{¶3} R.C. 2725.01 states as follows:

{¶4} "Whoever is unlawfully restrained of his liberty, or entitled to the custody of another, of which custody such person is unlawfully deprived, may prosecute a writ of habeas corpus, to inquire into the cause of such imprisonment, restraint or deprivation."

{¶5} Habeas corpus is not available to challenge either the validity or sufficiency of an indictment. *Luna v. Russell* (1994), 70 Ohio St.3d 561. Further, petitioner is not presently incarcerated and has not shown how he is otherwise "restrained of his liberty" at this time.

{¶6} Upon consideration whereof, petitioner's petition for writ of habeas corpus is denied. Costs assessed to petitioner.

PETITION DENIED.

Peter M. Handwork, P.J.

JUDGE

Richard W. Knepper, J.

JUDGE

Judith Ann Lanzinger, J.
CONCUR.

JUDGE