

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

Joseph R. Dorsey Jr.

Court of Appeals No. L-08-1134

Petitioner

v.

Sheriff, James Telb

DECISION AND JUDGMENT ENTRY

Respondent

Decided: June 23, 2008

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Joseph R. Dorsey, Jr., pro se.

Julia R. Bates, Lucas County Prosecuting Attorney, and
Kevin A. Pituch, Assistant Prosecuting Attorney, for respondent.

* * * * *

OSOWIK, J.

{¶ 1} This matter is before the court on respondent's return of writ and motion to dismiss in response to Joseph R. Dorsey Jr.'s petition for a writ of habeas corpus.

{¶ 2} On May 1, 2008, petitioner filed a petition for a writ of habeas corpus alleging that he has been unlawfully incarcerated at the Lucas County Corrections

Center. Petitioner claims that there was insufficiency of process and service of process in connection with a receiving stolen property charge and breaking and entering charge filed against him in March 2008. (Case Nos. CRA-08-04568-0101/CRA-08-07484-0101).

{¶ 3} Contrary to petitioner's assertions, the record establishes that at his March 31, 2008 arraignment, petitioner, by and through his appointed counsel, waived any defects as to time, place, or manner of service of the indictment. In addition, the record shows that petitioner failed to file the requisite supporting affidavit, as mandated by R.C. 2969.25(A). Lastly, relevant case law establishes that the grand jury indictment of petitioner rendered moot any defects alleged to have occurred in the preliminary hearing process. *State ex rel. Pena v. Konteh*, 6th Dist. No. L-07-1248, 2007-Ohio-3955.

{¶ 4} On consideration whereof, we find that the petitioner has failed to establish that his confinement is unlawful, the respondent has demonstrated the legitimacy of petitioner's incarceration, and therefore, we find respondent's motion to dismiss well-taken and grant same. Accordingly, petitioner's petition is ordered dismissed at petitioner's costs.

PETITION DISMISSED.

{¶ 5} To the Clerk of Court:

{¶ 6} The Sheriff of Lucas County shall immediately serve upon the respondent by personal service a copy of this decision and is further directed to immediately serve upon all other parties a copy of this decision in a manner prescribed by Civ.R. 5(B).

Peter M. Handwork, J.

JUDGE

Arlene Singer, J.

JUDGE

Thomas J. Osowik, J.
CONCUR.

JUDGE

<p>This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at: http://www.sconet.state.oh.us/rod/newpdf/?source=6.</p>
