

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

Michael Wymer

Court of Appeals No. L-12-1158

Petitioner

v.

James Telb, Lucas County Sheriff

DECISION AND JUDGMENT

Respondent

Decided: July 2, 2012

* * * * *

Jeffrey D. Levy, for petitioner.

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YARBROUGH, J.

{¶ 1} Petitioner, Michael Wymer, has filed a second petition for a writ of habeas corpus alleging unlawful detention based upon excessive bail. On June 7, 2012, we dismissed Wymer's initial petition on the basis that Wymer's complaint was not verified and that Wymer failed to name a respondent.

{¶ 2} A review of the instant complaint reveals Wymer has failed to attach the necessary commitment papers in compliance with R.C. 2725.04(D).

{¶ 3} The Supreme Court has held failure to comply with this requirement is a fatal defect which cannot be cured, “[Commitment papers] are necessary for a complete understanding of the petition. Without them, the petition is fatally defective. When a petition is presented to a court that does not comply with R.C. 2725.04(D), there is no showing of how the commitment was procured and there is nothing before the court on which to make a determined judgment except, of course, the bare allegations of petitioner’s application.” *Bloss v. Rogers*, 65 Ohio St.3d 145, 146, 602 N.E.2d 602 (1992). *See also Boyd v. Money*, 82 Ohio St.3d 388, 389, 696 N.E.2d 568 (1998), holding that habeas corpus petitioner’s failure to attach pertinent commitment papers to his petition rendered petition fatally defective, and petitioner’s subsequent attachment of commitment papers to his post judgment motion did not cure the defect.

{¶ 4} Accordingly, Wymer’s petition for a writ of habeas corpus is dismissed. Petitioner is ordered to pay costs. It is further ordered that the clerk shall serve upon the parties notice of this judgment and date of entry pursuant to Civ.R. 58(B).

Writ denied.

Mark L. Pietrykowski, J.

JUDGE

Thomas J. Osowik, J.

JUDGE

Stephen A. Yarbrough, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of

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