

[Cite as *Tolliver v. Mason*, 2002-Ohio-1067.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 80886

CHARLES E. TOLLIVER, JR.	:	PETITION FOR WRIT
	:	OF HABEAS CORPUS
PETITIONER	:	
	:	
-vs-	:	<i>JOURNAL ENTRY AND OPINION</i>
	:	
WILLIAM D. MASON	:	
	:	
RESPONDENT	:	

DATE OF JOURNALIZATION: MARCH 14, 2002

JUDGMENT: Writ Dismissed

APPEARANCES:

FOR RELATOR:

CHARLES E. TOLLIVER, JR., ESQ.
NO. 396-465
Cuyahoga County Jail
Cleveland, Ohio 44101

FOR RESPONDENT:

WILLIAM D. MASON, ESQ.
CUYAHOGA COUNTY PROSECUTOR
9th Floor, Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

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DYKE, J.:

{¶1} *Sua Sponte*, we dismiss the petitioner's complaint, as filed on February 21, 2002, which requests that this court issue a Writ of Habeas Corpus against respondent, William D. Mason. Mr. Tolliver asserts that he was wrongfully convicted based upon jurisdictional defects in *State v. Tolliver*, Cuyahoga Court of Common Pleas, Case No. 391137.

{¶2} A review of the record indicates that Mr. Tolliver appealed his conviction and this court reversed the judgment, vacated the sentence and remanded the matter back to the trial court to allow the State to present evidence of the possible tolling of the statute of limitations on the conspiracy charge against Mr. Tolliver. See *State v. Tolliver* (Sept. 13, 2001), Cuyahoga App. No. 78786, unreported.

{¶3} On February 25, 2002, the lower court held a hearing pursuant to our order and ruled that *State v. Tolliver*, Cuyahoga Court of Common Pleas, Case No. 391137, be dismissed. The court further ordered that Mr. Tolliver be released forthwith. Accordingly, Mr. Tolliver's petition is moot. *Larson v. State of Ohio* (2001), 92 Ohio St.3d 69, 748 N.E.2d 72; *Pewitt v. Lorain Correctional Inst.* (1992), 64 Ohio St.3d 470, 597 N.E.2d 92.

{¶4} Finally, we find that the petitioner failed to support his complaint with an affidavit "specifying the details of the claim" as required by Loc.R. 45(B)(1)(a). *State ex rel. Wilson v.*

Calabrese (Jan. 18, 1996), Cuyahoga App. No. 70077, unreported and *State ex rel. Smith v. McMonagle* (July 17, 1996), Cuyahoga App. No. 70899, unreported.

{¶5} Accordingly, we dismiss this action *sua sponte*. Petitioner to pay costs. The clerk is directed to serve notice of this judgment upon all parties as provided in Civ.R. 58(B).

Writ Dismissed.

KENNETH A. ROCCO, P.J. AND
MICHAEL J. CORRIGAN, J., CONCUR.

JUDGE
ANN DYKE