

[Cite as *Sherrod v. McFaul*, 2005-Ohio-6347.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

No. 87264

STEVEN SHERROD	:	ORIGINAL ACTION
	:	
	:	JOURNAL ENTRY
Relator	:	AND
	:	OPINION
vs.	:	
	:	
GERALD T. MCFAUL, SHERIFF	:	
	:	
Respondent	:	

DATE OF JOURNALIZATION: NOVEMBER 29, 2005

CHARACTER OF PROCEEDINGS: WRIT OF HABEAS CORPUS

JUDGMENT: Petition Dismissed.
Order No. 378033

APPEARANCES:

For Relator: STEVEN SHERROD, pro se
Inmate No. 153304
Cuyahoga County Jail
P.O. Box 5600
Cleveland, Ohio 44101

For Respondent: WILLIAM D. MASON
Cuyahoga County Prosecutor
BY: LISA WILLIAMSON
Assistant County Prosecutor
Justice Center - 9th Floor
1200 Ontario Street
Cleveland, Ohio 44113

[Cite as *Sherrod v. McFaul*, 2005-Ohio-6347.]
JUDGE CHRISTINE T. MCMONAGLE:

{¶ 1} Petitioner, Steven Sherrod, was arrested on August 19, 2005. He appeared in the Cleveland Municipal Court on August 22, 2005 at which time bond was set at \$15,000.00 and the case was bound over to the grand jury. He brings this action in habeas corpus against respondent sheriff and complains that:

"his current confinement, in the Cuyahoga County Jail, is without jurisdiction and violates the Fifth Amendment to the U.S. Constitution and Ohio's Superintendent Rule 8(A). Also, this instant cause of detention is without formal commit papers, as no indictment has issued pursuant to rule or statute."

Petition, par. 2 (capitalization and spelling in original).

{¶ 2} Sherrod's reference to Sup.R. 8(A) is dated, however. Sup.R. 39(B)(2) supersedes former Sup.R. 8(A) and provides:

"*Grand jury proceedings.* When an accused has been bound over to a grand jury and no final action is taken by the grand jury within sixty days after the date of the bindover, the court or the administrative judge of the court shall dismiss the charge unless for good cause shown the prosecuting attorney is granted a continuance for a definite period of time."

At the time Sherrod commenced this action on November 9, 2005, he had not been indicted. See *State v. Sherrod*, Cuyahoga County Court of Common Pleas Case No. BO-05-5371U. He was indicted, however, on November 14, 2005 and arraigned on November 15, 2005. *State v. Sherrod*, Cuyahoga County Court of Common Pleas Case No. CR-473282. As a consequence, this action in habeas corpus is moot.

{¶ 3} Accordingly, we dismiss this action sua sponte. Each party to bear his own costs. The clerk is directed to serve upon

the parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

Petition dismissed.

CHRISTINE T. MCMONAGLE
JUDGE

FRANK D. CELEBREZZE, JR., P.J., CONCURS

ANTHONY O. CALABRESE, JR., J., CONCURS