

[Cite as *State ex rel. Irvin v. Office of Pros. Atty.*, 2005-Ohio-6975.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

No. 87134

RODNEY T. IRVIN, EX REL.	:	ORIGINAL ACTION
	:	
	:	JOURNAL ENTRY
Relator	:	AND
	:	OPINION
vs.	:	
	:	
OFFICE OF PROSECUTING	:	
ATTORNEY, ET AL.	:	
	:	
Respondents	:	

DATE OF JOURNALIZATION:	DECEMBER 21, 2005
CHARACTER OF PROCEEDINGS:	WRIT OF HABEAS CORPUS
JUDGMENT:	Petition Dismissed. Motion No. 376952 Order No. 378476

APPEARANCES:

For Relator:	RODNEY T. IRVIN, pro se Inmate No. 0096535 Cuyahoga County Jail P.O. Box 5600 Cleveland, Ohio 44101
For Respondent:	WILLIAM D. MASON Cuyahoga County Prosecutor BY: MARY MCGRATH Assistant County Prosecutor Justice Center - 9 th Floor 1200 Ontario Street

Cleveland, Ohio 44113

JUDGE CHRISTINE T. MCMONAGLE:

{¶1} Rodney T. Irvin has filed a petition for a writ of habeas corpus. Irvin argues that he has been denied the right to a speedy trial which requires his immediate release from the custody of the Cuyahoga County Sheriff and the dismissal of the criminal charges of felonious assault (R.C. 2903.11), assault (R.C. 2903.13) and endangering children (R.C. 2919.22), as brought in the underlying action of *State v. Irvin*, Cuyahoga County Court of Common Pleas Case No. CR-469059. The Cuyahoga County Prosecutor has filed a motion to dismiss which we grant for the following reasons.

{¶2} Initially, we find that Irvin has failed to comply with the requirements of R.C. 2725.04(D) which provides that a copy of the commitment or cause of detention be attached to the petition for a writ of habeas corpus. *Brown v. Rogers* (1995), 72 Ohio St.3d 339, 650 N.E.2d 422; *Bloss v. Rogers* (1992), 65 Ohio St.3d 145, 602 N.E.2d 602; *Sostre v. McFaul* (Mar. 23, 2000), Cuyahoga App. No. 77755. It must also be noted that Irvin has failed to comply with the mandatory requirements of R.C. 2969.25(A). An inmate, when filing a civil action against a government entity or employee, must also file an affidavit which contains a description of each civil action or appeal of a civil action that has been docketed in the previous five years in either state or federal court. *State ex rel. Akbar-El v. Cuyahoga Cty. Court of Common Pleas*, 94 Ohio St.3d

210, 2002-Ohio-475, 761 N.E.2d 624; *State ex rel. Sherrills v. Franklin Cty. Clerk of Courts*, 92 Ohio St.3d 402, 2001-Ohio-211, 750 N.E.2d 94. Finally, habeas corpus may not be employed to challenge a lack of speedy trial. *Prather v. Brigano*, 86 Ohio St.3d 609, 1999-Ohio-212, 716 N.E.2d 197; *State ex rel. Brantley v. Ghee*, 80 Ohio St.3d 287, 1997-Ohio-116, 685 N.E.2d 1243; *In re: Singer* (1976), 45 Ohio St.2d 130, 341 N.E.2d 849.

{¶3} Accordingly, we grant the motion to dismiss and find that Irvin has failed to state a claim against either the Cuyahoga County Prosecutor or the Cuyahoga County Sheriff. Costs to Irvin.

It is further ordered that the Clerk of the Eighth District Court of Appeals serve notice of this judgment upon all parties as required by Civ.R. 58(B).

Petition dismissed.

CHRISTINE T. MCMONAGLE
JUDGE

KENNETH A. ROCCO, P.J., CONCURS

MICHAEL J. CORRIGAN, J., CONCURS