

[Cite as *State ex rel. Durham v. Wilson*, 2005-Ohio-757.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

No. 85928

S/O EX REL.: ROY A.	:	ORIGINAL ACTION
DURHAM, JR.	:	
	:	JOURNAL ENTRY
Relator	:	AND
	:	OPINION
vs.	:	
	:	
JULIUS WILSON, WARDEN	:	
	:	
Respondent	:	

DATE OF JOURNALIZATION: FEBRUARY 23, 2005

CHARACTER OF PROCEEDINGS: WRIT OF HABEAS CORPUS

JUDGMENT: Writ Dismissed.
Motion No. 368702

APPEARANCES:

For Relator:	LARRY W. ZUKERMAN
	PAUL B. DAIKER
	Zukerman, Daiker & Lear
Co., L.P.A.	
	2000 East Ninth Street
	Suite 700
	Cleveland, Ohio 44115

For Respondent:	JAMES M. PETRO
	Attorney General of Ohio
	30 East Broad Street, 26th Fl.
	Columbus, Ohio 43215-6001

Judge Sean Gallagher:

{¶ 1} On February 7, 2005, petitioner, Roy A. Durham, Jr., commenced this habeas corpus action seeking immediate release from prison. We dismiss the petition, sua sponte, for lack of territorial jurisdiction because the petitioner is incarcerated at the Trumbull Correctional Institution located in Leavittsburg, Ohio, and is not in the custody of any authority located within Cuyahoga County. See R.C. 2725.03; *Bridges v. McMackin* (1989), 44 Ohio St.3d 135, 541 N.E.2d 1035; *State ex rel. Randy Lewis v. John D. Morgan* (June 17, 1999), Cuyahoga App. No. 76314; and *State ex rel. Juan Mays v. Gerald T. McFaul* (Mar. 18, 1999), Cuyahoga App. No. 75833. The proper forum for a habeas corpus action is the appropriate court within the territory in which the prisoner's institution is located.

{¶ 2} It is further ordered that the clerk shall serve upon all parties notice of this judgment and date of entry pursuant to Civ.R. 58(B). Costs of this action are assessed against relator.

Writ dismissed.

SEAN C. GALLAGHER
JUDGE

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

KENNETH A. ROCCO, J., CONCURS