

[Cite as *Taylor v. State*, 2009-Ohio-2890.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 93207

MICHAEL D. TAYLOR

RELATOR

VS.

STATE OF OHIO

RESPONDENT

**JUDGMENT:
PETITION FOR WRIT
OF HABEAS CORPUS DENIED**

PETITION FOR WRIT OF
HABEAS CORPUS
MOTION NO. 421857
ORDER NO. 422320

RELEASE DATE: June 16, 2009

FOR RELATOR:

Michael D. Taylor, pro se
Inmate No.0151048, C.C.D.C
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Cleveland, Ohio 44101

ATTORNEYS FOR RESPONDENT:

William D. Mason
Cuyahoga County Prosecutor

By: Anne Bringman
Kristen L. Sobieski
Assistant County Prosecutors
8th Floor Justice Center
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Cleveland, Ohio 44113

MELODY J. STEWART, J.:

{¶ 1} Michael D. Taylor has filed a petition for a writ of habeas corpus. Taylor argues that the denial of his right to a speedy trial, in *State v. Thomas*, Cuyahoga County Court of Common Pleas Case Nos. CR-08-517515 and CR-08-514124, mandates his release from detention in the Cuyahoga County Jail. Service of the petition for a writ of habeas corpus was made upon the Superintendent of the Cuyahoga County Jail. A motion for summary judgment has been filed by the Superintendent of the Cuyahoga County Jail, which we grant for the following reasons.

{¶ 2} Initially, we find that Taylor has improperly captioned his petition for a writ of habeas corpus. The caption of “General Form of a Complaint in Habeas Corpus in the Appeals Court of Ohio 44113” does not identify the petitioner or the respondent. Taylor has also failed to include the address of the respondent as required by Civ.R. 10(A). The Supreme Court of Ohio has established that an improper caption constitutes a basis for dismissal of a petition for a writ of habeas corpus. *State ex rel Sherrills v. The State of Ohio* (2001), 91 Ohio St.3d 133, 742 N.E.2d 651.

{¶ 3} In addition, Taylor has failed to comply with the mandatory requirements of R.C. 2725.04.

{¶ 4} “R.C. 2725.04 requires that petitions for habeas corpus be verified. The failure to verify the petition requires its dismissal. *Chari v. Vore* (2001), 91 Ohio St.3d 323, 744 N.E.2d 763 and *State ex rel. Crigger v. Ohio Adult Parole Authority* (1998), 82 Ohio St.3d 270, 695 N.E.2d 254. **In *Vore* the Supreme Court of Ohio was adamant that unverified petitions for habeas corpus be dismissed; it reversed the granting of relief in a habeas petition because it was not verified.**

Similarly, the relator failed to support his complaint with an affidavit specifying the details of the claim as required by Local Rule 45(B)(1)(a). *State ex rel. Wilson v. Alabrese* (Jan. 18, 1996), Cuyahoga App. No. 70077, unreported and *State ex rel Smith v. McMonagle* (July 17, 1996), Cuyahoga App. No. 70899, unreported.” *State*

ex rel. Woods v. State (May 21, 2001), Cuyahoga App. No. 79577, at ¶2. (Emphasis added.)

{¶ 5} Herein, Taylor has not verified the petition for a writ of habeas corpus, which requires dismissal of his petition. *Chari v. Vore*, supra. In addition, Taylor has also failed to comply with Loc. App.R. 45(B)(1)(a), which mandates that the petition be supported by a sworn affidavit that specifies the details of the claim. *Turner v. Russo*, Cuyahoga App. No. 87852, 2006-Ohio-4490; *Jarrett v. Cuyahoga Cty. Common Pleas Court*, Cuyahoga App. No. 87232, 2006-Ohio-2220.

{¶ 6} It must also be noted that Taylor 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 (5) 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.

{¶ 7} Notwithstanding the aforesaid procedural defects which mandate dismissal of the petition for a writ of habeas corpus, we find that Taylor has failed to substantively demonstrate that he is entitled to a writ of habeas corpus. Habeas Corpus may not be employed to challenge the denial of the right to a speedy trial. *Prather v. Brigano* (1999), 86 Ohio St.3d 609, 716 N.E.2d 197; *State ex rel. Brantley*

v. Ghee (1997), 80 Ohio St.3d 287, 685 N.E.2d 1243; *Clarke v. McFaul*, Cuyahoga App. No. 89436, 2007-Ohio-1592.

{¶ 8} Based upon the procedural defects and the inability to challenge the denial of the right to a speedy trial vis-a-vis a petition for a writ of habeas corpus, we find that Taylor has failed to establish that relief is warranted. Accordingly, we grant the motion for summary judgment filed by the Superintendent of the Cuyahoga County Jail. Costs to Taylor. It is further ordered that the Clerk of the Eighth District Court of Appeals serve notice of this judgment upon all parties as mandated by Civ.R. 58(B).

Petition denied.

MELODY J. STEWART, JUDGE

SEAN C. GALLAGHER, P.J., and
MARY J. BOYLE, J., CONCUR