

[Cite as *Arthur v. State*, 2010-Ohio-3736.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 95480

MR. DERRICK ARTHUR

PETITIONER

VS.

STATE OF OHIO

RESPONDENT

**JUDGMENT:
PETITION DISMISSED**

Writ of Habeas Corpus
Motion No. 436326
Order No. 436670

RELEASE DATE: August 11, 2010

FOR PETITIONER

Derrick Arthur, pro se
Inmate No. 444-702
S.O.C.F.
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Lucasville, Ohio 45699

ATTORNEYS FOR RESPONDENT

William D. Mason
Cuyahoga County Prosecutor

By: Mary McGrath
Assistant County Prosecutor
8th Floor Justice Center
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Cleveland, Ohio 44113

SEAN C. GALLAGHER, A.J.:

{¶ 1} Derrick Arthur has filed a petition for a writ of habeas corpus. For the following reasons, we grant the motion to dismiss as filed on behalf of the state of Ohio.

{¶ 2} Arthur's petition for a writ of habeas corpus is procedurally defective and thus subject to dismissal because:

{¶ 3} (1) the petition is not verified as required by R.C. 2725.04;

{¶ 4} (2) the petition fails to contain copies of all commitment papers as required by R.C. 2725.04(D);

{¶ 5} (3) the petition fails to contain a sworn and notarized affidavit that describes each civil action or appeal filed within the previous five years as required by R.C. 2969.25(A);

{¶ 6} (4) the petition fails to contain a statement that sets forth the balance in the petitioner/inmate's account for the preceding six months and/or all of the cash and things of value as owned by the petitioner/inmate as required by R.C. 2969.25(C);

{¶ 7} (5) the petition fails to contain a sworn and notarized affidavit that complies with Loc.App.R. 45(B)(1)(a).

{¶ 8} *Tisdale v. Eberlin*, 114 Ohio St.3d 201, 2007-Ohio-3833, 870 N.E.2d 1191; *Chari v. Vore*, 91 Ohio St.3d 323, 2001-Ohio-49, 744 N.E.2d 763.

See, also, *State ex rel. Leon v. Cuyahoga Cty. Court of Common Pleas*, 123 Ohio St.3d 124, 2009-Ohio-4688, 914 N.E.2d 402; *Martin v. Woods*, 121 Ohio St.3d 609, 2009-Ohio-1928, 906 N.E.2d 1113; *Humphrey v. Ohio Water Parks, Inc.* (1994), 97 Ohio App.3d 403, 646 N.E.2d 908; *State ex rel. Davis*, Cuyahoga App. No. 90533, 2008-Ohio-584; *Morris v. Bureau of Sentence Computation*, Cuyahoga App. No. 89517, 2007-Ohio-1444; *State ex rel. McKay v. Corrigan*, Cuyahoga App. No. 88340.

{¶ 9} Finally, Arthur has failed to state with any specificity the extraordinary circumstances that would allow this court to issue a writ of habeas corpus on his behalf.

{¶ 10} “Second, in order to avoid dismissal, a petitioner must state with particularity the extraordinary circumstances entitling him to habeas corpus relief. *State ex rel. Wilcox v. Seider* (1996), 76 Ohio St.3d 412, 414, 667 N.E.2d 1220, 1222. Unsupported conclusions contained in a habeas corpus petition are not considered admitted and are insufficient to withstand dismissal. *State ex rel. Carrion v. Ohio Adult Parole Auth.* (1998), 80 Ohio St.3d 637, 638, 687 N.E.2d 759, 760.” *Chari v. Vore*, supra, at 328.

{¶ 11} Herein, Arthur’s petition contains unsupported legal claims and conclusions, such as mental illness and ineffective assistance of trial counsel, that do not support the granting of a writ of habeas corpus. Cf. *Patterson v. Ohio Adult Parole Auth.*, 120 Ohio St.3d 311, 2008-Ohio-6147; *In re: Jackson v. Phillips*, et al, Cuyahoga App. No. 91963, 2009-Ohio-125.

{¶ 12} Accordingly, we grant the state of Ohio’s motion to dismiss the petition for a writ of habeas corpus. Costs to Arthur. 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.

SEAN C. GALLAGHER, ADMINISTRATIVE JUDGE

ANN DYKE, J., and
MARY J. BOYLE, J., CONCUR