

[Cite as *Cannon v. Shaffer*, 2010-Ohio-538.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 94588

MAURICE CANNON

RELATOR

VS.

WARDEN SHAFFER

RESPONDENT

**JUDGMENT:
PETITION DISMISSED**

Writ of Habeas Corpus
Motion No. 430858
Order No. 430751

RELEASE DATE: February 12, 2010

FOR RELATOR

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CHRISTINE T. MCMONAGLE, P.J.:

{¶ 1} On January 27, 2010, the petitioner, Maurice Cannon, commenced this habeas corpus action against the respondent, Warden Shaffer of the Cuyahoga County Jail, to compel his immediate release. He argues that violations of the speedy trial act, R.C. 2945.71, entitle him to immediate release. For the following reasons, this court dismisses the petition for a writ of habeas corpus, sua sponte.

{¶ 2} First, the petition is fatally defective. R.C. 2725.04(D) requires a habeas corpus petitioner to include a copy of the commitment or cause of detention. Cannon has attached nothing to his complaint.

{¶ 3} R.C. 2725.04 further requires the petition to be verified. In *Chari v. Vore*, 91 Ohio St.3d 323, 2001-Ohio-49, 744 N.E.2d 763, the Supreme Court of Ohio ruled: “‘Verification’ means a ‘formal declaration made in the presence of an authorized officer, such as a notary public, by which one swears to the truth of the statement in the document.’ Garner, Black’s Law Dictionary (7 Ed.1999) 1556 * * *.” Cannon attached an “Affidavit of Details” with his petition at the end of which he states per Title 28 U.S.C. §1746 that his statements were made under penalty of perjury. However, it is not notarized. Therefore, it is insufficient to be a proper verification or affidavit under Ohio law. *Griffin v. McFaul*, 116 Ohio St.3d 30, 2007-Ohio-5506, 876 N.E.2d 527. Loc.R. 45(B)(1)(a) requires all complaints for original actions, including habeas corpus, to be supported by an affidavit specifying the details of the claim. Because the “affidavit” is not properly notarized, it does not fulfill the rule’s requirement and provides an additional reason for dismissal. *State ex rel. Wilson v. Calabrese* (Jan. 18, 1996), Cuyahoga App. No. 70077, and *State ex rel. Smith v. McMonagle* (July 17, 1996), Cuyahoga App. No. 70899.

{¶ 4} Cannon also did not comply with R.C. 2969.25(C), which requires that an inmate file a certified statement from the prison cashier setting forth the balance in the petitioner’s private account for each of the preceding six months. This also is sufficient reason to deny the petition, deny indigency status, and assess costs against him. *State ex rel. Pamer v. Collier*, 108 Ohio St.3d 492,

2006-Ohio-1507, 844 N.E.2d 842; *Griffin v. McFaul*; and *State ex rel. Hunter v. Cuyahoga Cty. Court of Common Pleas*, 88 Ohio St.3d 176, 2000-Ohio-285, 724 N.E.2d 420. Accordingly, the many pleading deficiencies warrant dismissal.

{¶ 5} Moreover, Cannon’s claim for relief is meritless. Habeas corpus is not the remedy for litigating speedy trial issues. *Jackson v. Wilson*, 100 Ohio St.3d 315, 2003-Ohio-6112, 789 N.E.2d 1086; and *State ex rel. Brantley v. Ghee* (1987), 80 Ohio St.3d 287, 685 N.E.2d 1243.

{¶ 6} Accordingly, this court sua sponte dismisses Cannon’s petition for a writ of habeas corpus. Cannon to pay costs. The court further orders the Clerk of the Eighth District Court of Appeals to serve notice of this judgment upon all parties as required by Civ.R. 58(B).

CHRISTINE T. MCMONAGLE, PRESIDING JUDGE

JAMES J. SWEENEY, J., and
COLLEEN CONWAY COONEY, J., CONCUR