

[Cite as *Alexander v. Wilson*, 2011-Ohio-945.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 96204

DARNELL ALEXANDER

RELATOR

vs.

**REGINALD A. WILSON, DIRECTOR,
OHIO ADULT PAROLE AUTHORITY, ET AL.**

RESPONDENTS

**JUDGMENT:
PETITION DISMISSED**

Writ of Habeas Corpus
Motion No. 440895
Order No. 441594

RELEASE DATE: February 28, 2011

FOR RELATOR

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FRANK D. CELEBREZZE, JR., J.:

{¶ 1} Darnell Alexander has filed a petition for a writ of habeas corpus.

Alexander argues that Reginald A. Wilkinson¹ and the Ohio Dept. of Rehabilitation and Correction “violated his U.S. Constitutional rights by aggregating his initial parole board hearing with the new charge outside of

¹Wilkinson was the former director of the Ohio Dept. of Rehabilitation and Correction.

his presence,” which mandates his release from prison. Wilkinson and the Ohio Dept. of Rehabilitation and Correction have filed a motion to dismiss, which we grant for the following reasons.

{¶ 2} Initially, we find that Alexander has failed to comply with the mandatory requirements of R.C. 2725.04.

{¶ 3} “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 Auth.* (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 Loc.R. 45(B)(1)(a). *State ex rel. Wilson v. Calabrese* (Jan. 18, 1996), Cuyahoga App. No. 70077, unreported and *State ex rel. Smith v. McMonagle* (July 17, 1996), Cuyahoga App. No. 70899, unreported.” (Emphasis added.) *State ex rel. Woods v. State* (May 21, 2001), Cuyahoga App. No. 79577, at 2.

{¶ 4} Herein, Alexander has failed to support his petition for a writ of habeas corpus with the necessary verification. Alexander’s failure to verify the petition requires dismissal of his petition for a writ of habeas corpus. *Chari v. Vore*, supra; *Sidle v. Ohio Adult Parole Auth.*, 89 Ohio St.3d 520,

2000-Ohio-237, 733 N.E.2d 1115; *Wayne v. Bobby*, Belmont App. No. 02-BE-72, 2003-Ohio-3882. Alexander 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.

{¶ 5} In addition, Alexander's petition for a writ of habeas corpus is defective because he has failed to include copies of all pertinent commitment papers as required by R.C. 2725.04(D). Alexander's failure to attach copies of his commitment papers requires that we dismiss the petition for a writ of habeas corpus. *State ex rel. Winnick v. Gansheimer*, 112 Ohio St.3d 149, 2006-Ohio-6521, 858 N.E.2d 409; *Harris v. Anderson*, 109 Ohio St.3d 101, 2006-Ohio-1934, 846 N.E.2d 43; *Bloss v. Rogers* (1992), 65 Ohio St.3d 145, 602 N.E.2d 602.

{¶ 6} It must also be noted that Alexander has failed to comply with the mandatory requirements of R.C. 2969.25(A). When filing a civil action against a government entity or employee, an inmate 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. Shrills*

v. Franklin Cty. Clerk of Courts, 92 Ohio St.3d 402, 2001-Ohio-211, 750 N.E.2d 94.

{¶ 7} Finally, a writ of habeas corpus is not appropriate under the facts as cited by Alexander because he is not incarcerated within Cuyahoga County. One of the basic requirements for the issuance of a writ of habeas corpus is that, regardless of where the prisoner was convicted, the petition can only proceed in the county where he is actually incarcerated. This court does not possess the authority to order the release of a person from prison unless the prison lies within our territorial jurisdiction. *Bridges v. McMackin* (1989), 44 Ohio St.3d 135, 541 N.E.2d 1035; *McAllister v. Ohio Adult Parole Auth.*, 7th District No. 06-HA-583, 2006-Ohio-3697. In the case sub judice, Alexander is not imprisoned within Cuyahoga County; therefore, we lack jurisdiction to address the petition for a writ of habeas corpus.

{¶ 8} Accordingly, we grant the motion to dismiss the petition for a writ of habeas corpus. Costs to Alexander. The Clerk of the Eighth District Court of Appeals is ordered to serve a copy of this judgment upon all parties as required by Civ.R. 58(B).

Petition dismissed.

FRANK D. CELEBREZZE, JR., JUDGE

MARY EILEEN KILBANE, A.J., and
MARY J. BOYLE, J., CONCUR

