

[Cite as *State ex rel. Orr v. Bova*, 2014-Ohio-1525.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 101036

**STATE OF OHIO, EX REL.
DARLLEL B. ORR**

PETITIONER

vs.

FRANK BOVA, SHERIFF

RESPONDENT

JUDGMENT:
PETITION DISMISSED

Writ of Mandamus
Motion No. 472895
Order No. 473458

RELEASE DATE: April 4, 2014

FOR PETITIONER

Darlllel B. Orr, pro se
Inmate No. 0206100
Cuyahoga County Jail
P.O. Box 5600
Cleveland, Ohio 44101

ATTORNEYS FOR RESPONDENT

Timothy J. McGinty
Cuyahoga County Prosecutor
By: Mary H. McGrath
Assistant County Prosecutor
The Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

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

{¶1} Darlrel B. Orr has filed a petition for a writ of habeas corpus. Orr alleges that he is entitled to release from incarceration because “his current confinement is unconstitutional pursuant [to] a patent lack of jurisdiction for failure to strickly [sic] comport with O.R.C. 2945.05 [jury waiver].” We decline to issue a petition on behalf of Orr.

{¶2} The Supreme Court of Ohio has established that a claim of a defective jury waiver is not cognizable through a petition for a writ of habeas corpus and must be addressed through a direct appeal. *Bozsik v. Hudson*, 110 Ohio St.3d 245, 2006-Ohio-4356, 852 N.E.2d 1200; *Kelley v. Wilson*, 103 Ohio St.3d 201, 2004-Ohio-4883, 814 N.E.2d 1222; *State ex rel. Larkins v. Aurelius*, 84 Ohio St.3d 112, 1998-Ohio-661, 702 N.E.2d 79.

{¶3} Accordingly, we grant the motion to dismiss filed by Frank Bova, Cuyahoga County Sheriff. Costs to Orr. The court directs the clerk of court to serve all parties with notice of this judgment and the date of entry upon the journal as required by Civ.R. 58(B).

{¶4} Petition dismissed.

FRANK D. CELEBREZZE, JR., PRESIDING JUDGE

KENNETH A. ROCCO, J., and
MELODY J. STEWART, J., CONCUR