

[Cite as *Dilliard v. State*, 2017-Ohio-194.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 105064

MAURICE A. MAY-DILLARD

PETITIONER

vs.

STATE OF OHIO

RESPONDENT

JUDGMENT:
PETITION DENIED

Writ of Habeas Corpus
Motion No. 501063
Order No. 502015

RELEASE DATE: January 13, 2017

FOR PETITIONER

Maurice A. May-Dillard
Inmate No. A301-181
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ATTORNEYS FOR RESPONDENT

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Cuyahoga County Prosecutor
By: James E. Moss
Assistant County Prosecutor
The Justice Center
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TIM McCORMACK, P.J.:

{¶1} On October 12, 2016, the petitioner, Maurice May-Dillard, commenced this habeas corpus action. Although it is difficult to discern his specific claim(s), he seems to be arguing that his proceedings were so illegal that he is entitled to immediate release. He claims that he was given three sentences for two crimes, that a bench warrant was improperly issued for his arrest, and that the state and defense counsel took advantage of his youth, ignorance, and hard life to obtain guilty pleas for kidnapping and aggravated robbery.¹ On October 18, 2016, the state of Ohio, as the named respondent, moved for summary judgment on the grounds of multiple pleading defects and failure to state a cognizable claim in habeas corpus. May-Dillard filed his objections to the dispositive motion on November 14, 2016 and December 12, 2016. For the following reasons, this court grants the state’s motion for summary judgment and denies the petition for habeas corpus.

{¶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. May-Dillard attached only a copy of his arraignment entry in one of his cases.² This is

¹The two underlying cases are *State v. May-Dillard*, Cuyahoga C.P. No. CR-94-312347-ZA (“Case One”), and *State v. May-Dillard*, Cuyahoga C.P. No. CR-94-316029-ZA (“Case Two”). A review of the dockets shows that in late 1994, in Case One, May-Dillard was charged with aggravated robbery, kidnapping, and failure to comply with the order/signal of a police officer. May-Dillard pleaded guilty to an amended kidnapping count, and the other charges were nolle. The judge sentenced him to seven to 25 years. In Case Two, he pleaded guilty to the sole charge of aggravated robbery, and the judge sentenced him to seven to 25 years concurrent to the sentence in Case One.

²The entry does not include the case name or number or even the judge’s name.

insufficient. Compliance with R.C. 2725.04(D) requires attachment of all of the journal entries causing petitioner's detention, and a partial entry from one case is not sufficient. *State ex rel. Jackson v. Sloan*, Slip Opinion No. 2016-Ohio-5106; and *Wilson v. Kochevar*, 8th Dist. Cuyahoga No. 84516, 2004-Ohio-2984. Even if the court were inclined to consider the state's attachments to its motion for summary judgment of his sentencing journal entries in Case One and Case Two, a review of May-Dillard's Ohio Department of Rehabilitation and Correction's webpage shows that he also is under confinement for a third case, possession of deadly weapon under detention. May-Dillard did not fulfill the statute's requirements.

{¶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 * * *." The Supreme Court of Ohio then reversed the court of appeals' granting of the writ and awarding of relief and held that the cause should have been summarily dismissed because the petition was procedurally defective. May-Dillard's submissions have no verifications, only his statement in his objections that "I truly swear to the courts that I had no knowledge of * * *." However, it was 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.

{¶4} Moreover, May-Dillard’s claim of excessive sentence is unsupported. The dockets of Case One and Case Two do not show a third sentence, and May-Dillard offers no evidence of such a sentence other than his unverified assertion. Furthermore, to obtain relief in habeas corpus a petitioner must establish that the court lacked jurisdiction. R.C. 2725.05 and *Pollock v. Morris*, 35 Ohio St.3d 117, 518 N.E.2d 1205 (1988). “[S]entencing errors are not jurisdictional and are not cognizable in habeas corpus.” *State ex rel. Sneed v. Anderson*, 114 Ohio St.3d 11, 2007-Ohio-2454, 866 N.E.2d 1084, ¶ 7, quoting *Majoros v. Collins*, 64 Ohio St.3d 442, 443, 596 N.E.2d 1038 (1992).

{¶5} May-Dillard’s claim that he was a minor is unfounded. The Ohio Department of Rehabilitation and Correction’s website lists his birthday as September 12, 1973. Thus, he was 21 years old when he faced these charges in late 1994.

{¶6} His claim that the prosecutor and his own attorney took advantage of his youth, ignorance, and hard life to obtain a guilty plea does not question the trial court’s jurisdiction to try criminal cases of robbery and kidnapping. Thus, relief in habeas corpus is not available. His proper remedy was appeal or post-trial motion arguing that his plea was not voluntary.³ An adequate remedy at law precludes a writ of habeas corpus. *Leyman v. Bradshaw*, 146 Ohio St.3d 522, 2016-Ohio-1093, 59 N.E.3d 1236.

{¶7} Accordingly, this court grants the respondent’s motion for summary judgment and denies the petition for a writ of habeas corpus. Petitioner to pay costs.

³The dockets of both Case One and Case Two show that he filed a motion to withdraw plea and a motion to dismiss charges in 2007.

This court directs the clerk of courts to serve all parties notice of this judgment and its date of entry upon the journal as required by Civ.R. 58(B).

{¶8} Petition denied.

TIM McCORMACK, PRESIDING JUDGE

SEAN C. GALLAGHER, J., and
ANITA LASTER MAYS, J., CONCUR