

[Cite as *State v. Patterson*, 2017-Ohio-2664.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
No. 105109

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**STATE OF OHIO**

PLAINTIFF-APPELLEE

vs.

**WILLIAM PATTERSON**

DEFENDANT-APPELLANT

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**JUDGMENT:  
AFFIRMED**

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Criminal Appeal from the  
Cuyahoga County Court of Common Pleas  
Case No. CR-03-437813-ZA

**BEFORE:** Laster Mays, J., Boyle, P.J., and Celebrezze, J.

**RELEASED AND JOURNALIZED:** May 4, 2017

**ATTORNEY FOR APPELLANT**

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**ATTORNEYS FOR APPELLEE**

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By: Frank Romeo Zeleznikar  
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ANITA LASTER MAYS, J.:

{¶1} Defendant-appellant, William Patterson (“Patterson”), appeals his conviction and asks this court to vacate his sentence. Patterson also appeals the trial court’s decision denying his petition for writ of habeas corpus. We affirm.

{¶2} Patterson was found guilty of robbery, a second-degree felony in violation of R.C. 2911.02. He was sentenced to six years imprisonment. Patterson filed an appeal, and this court in *State v. Patterson*, 8th Dist. Cuyahoga No. 101415, 2015-Ohio-873, affirmed the convictions and sentence. In 2016, Patterson filed a petition for writ of habeas corpus, and the trial court denied his petition. Patterson now appeals the trial court’s denial and assigns two errors for our review.

- I. The trial court erred when appellant was indicted by the Cuyahoga County Grand Jury count of robbery in violation of R.C. 2911.02(A), second-degree felony in two separate cases Cuyahoga C.P. Nos. CR-03-436958-ZA and CR-03-437813-ZA. The two indictments time-stamped April 25, 2003 and May 30, 2003; and
- II. The trial court erred when it granted appellant’s motion for dismissal of indictments pursuant to R.C. 2937.05 on February 18, 2004 and proceeding with a jury trial after dismissing the case thus violating the double jeopardy clauses of the Fifth Amendment to the United States Constitution and Ohio Constitution, Art. 10, protecting a criminal defendant against repeated prosecution for the same offense.

## I. Res Judicata

### A. Standard Review

{¶3} It is understood that,

“[r]es judicata, also known as claim preclusion is the doctrine under which a final judgment on the merits bars a party from bringing another lawsuit based upon the same claim.” *State v. Thompson*, 8th Dist. Cuyahoga No. 70532, 1996 Ohio App. LEXIS 5202 (Nov. 21, 1996). “Res judicata extends to bar not only claims which actually were litigated, but every question which might properly have been litigated.” *Id.* “Under the doctrine of res judicata, \* \* \* issues cannot be considered in postconviction proceedings under Ohio Rev. Code Ann. § 2953.21 where they have already been or could have been fully litigated by the prisoner while represented by counsel, either before his judgment of conviction or on direct appeal from that judgment. Issues properly before a court on a petition for postconviction relief are issues which could not have been raised on direct appeal due to the fact that the evidence supporting such issues is dehors the record. If a court finds that an issue raised in a petition for postconviction relief has, or should have been raised on direct appeal or in a previous postconviction relief motion, the trial court may dismiss the petition on the grounds of preclusion.” *Id.*

*State v. Shearer*, 8th Dist. Cuyahoga No. 103848, 2016-Ohio-7302, ¶ 4.

### B. Law and Analysis

{¶4} In Patterson’s assignments of error, he argues that the trial court’s decision was barred by the double jeopardy clauses of the United States Constitution and the Ohio Constitution. However his claims are barred by res judicata.

Under the doctrine of res judicata, “a valid, final judgment rendered upon the merits bars all subsequent actions based upon any claim arising out of the same transaction or occurrence that was the subject matter of a previous action.” *Grava v. Parkman Twp.*, 73 Ohio St.3d 379, 382, 1995-Ohio-331, 653 N.E.2d 226. The Ohio Supreme Court has identified four elements necessary to bar a claim under the doctrine of res judicata: (1) there is a final, valid decision on the merits by a court of competent jurisdiction; (2) the second action involves the same parties or their privies as the first; (3)

the second action raises claims that were or could have been litigated in the first action; and (4) the second action arises out of the transaction or occurrence that was the subject matter of the previous action.

(Citation omitted.) *Lenard v. Miller*, 8th Dist. Cuyahoga No. 99460, 2013-Ohio-4703, ¶ 27.

{¶5} Patterson is barred from bringing this claim because he could have raised these issues in his 2015 appeal. Instead, he argued that the evidence was insufficient and against the manifest weight; the trial court erred by not allowing him to cross-examine a witness; he received ineffective assistance of counsel; and he was denied the right to a speedy trial. He never argued that the trial court violated his protections against double jeopardy.

Under the doctrine [of res judicata], “a final judgment of conviction bars the convicted defendant from raising and litigating in any proceeding, except an appeal from that judgment, any defense or any claimed lack of due process that was raised or could have been raised by the defendant at the trial which resulted in that judgment of conviction or on an appeal from that judgment.”

*State v. Santiago*, 8th Dist. Cuyahoga No. 95564, 2011-Ohio-3059, ¶ 14, quoting *State v. Perry*, 10 Ohio St.2d 175, 180, 226 N.E.2d 104 (1967).

{¶6} After Patterson’s 2015 appeal, this court overruled all assignments of error. In that appeal, *Patterson*, 8th Dist. Cuyahoga No. 101415, 2015-Ohio-3338, we determined that his claims were barred by res judicata. Again, we determine that Patterson’s assignments of error in this action are barred by res judicata. This court rendered a final, valid decision in 2015 on these issues. Patterson’s assignments of error could have been litigated in the 2015 action because it concerns the same subject matter.

Therefore, Patterson’s claims are barred by res judicata, and we overrule all assignments of error.

## **II. Habeas Corpus**

### **A. Standard of Review**

{¶7} “Our standard of review [in] assessing the propriety of a trial court’s denial of a writ of habeas corpus is de novo.” *Ross v. Kinkela*, 8th Dist. Cuyahoga No. 79411, 2001-Ohio-4256.

### **B. Law and Analysis**

{¶8} Patterson contends that the trial court erred in denying his petition for habeas corpus. We find no merit to this contention because the trial court lacked jurisdiction to entertain his petition. “A writ of habeas corpus is an extraordinary remedy which is appropriate only if the petitioner is entitled to immediate release from prison or some other type of physical confinement.” *Id.* However,

“If a person restrained of his liberty is an inmate of a state benevolent or correctional institution, the location of which is fixed by statute and at the time is in the custody of the officers of the institution, no court or judge other than the courts or judges of *the county in which the institution is located* has jurisdiction to issue or determine a writ of habeas corpus for his production or discharge.” (Emphasis added.) R.C. 2725.03.

(Citation omitted.) *Goudlock v. Voorhies*, 119 Ohio St.3d 398, 2008-Ohio-4787, 894 N.E.2d 692, ¶ 17. R.C. 2725.03 further states that, “[a]ny writ issued by a court or judge of another county to an officer or person in charge at the state institution to compel the production or discharge of an inmate thereof is void.”

{¶9} Therefore, the trial court properly dismissed Patterson’s writ of habeas corpus because he filed his writ in a county where he is not incarcerated. Patterson filed the writ in Cuyahoga County. He is currently imprisoned in Ashtabula County. *See State ex rel. Jamison v. Cty. of Muskingum*, 5th Dist. Muskingum No. CT08-0007, 2008-Ohio-2000 (Since relator’s complaint seeking to be released from incarceration, which was essentially a writ of habeas corpus, was filed in a county different than the one where he was being housed, the court lacked jurisdiction to address the habeas corpus complaint.). *See also State ex rel. Ritchey v. Crawford Cty. Sheriff*, 10th Dist. Franklin No. 06AP-1288, 2007-Ohio-3549 (court adopted a magistrate’s decision to sustain a county sheriff’s motion to dismiss an inmate’s habeas corpus action, as the courts in Franklin County, Ohio lacked jurisdiction under R.C. 2725.03 to consider the habeas corpus action where the inmate was confined in a jail in Crawford County, Ohio). *See also Rockwell v. Geauga Cty. Court of Common Pleas*, 11th Dist. Geauga No. 2005-G-2661, 2005-Ohio-5762 (Under R.C. 2725.03, the appellate court did not have the basic authority to consider the merits of the inmate’s habeas corpus petition or to issue a writ ordering his release because, although it did have jurisdiction over the county where the inmate was convicted, it did not have jurisdiction over the county where the inmate was incarcerated.).

{¶10} The trial court did not err when it denied Patterson’s writ of habeas corpus.

{¶11} Judgment is affirmed.

It is ordered that the appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

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ANITA LASTER MAYS, JUDGE

MARY J. BOYLE, P.J., and  
FRANK D. CELEBREZZE, JR., J., CONCUR