

[Cite as *Thomas v. Tibbals*, 2011-Ohio-6087.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
No. 97519

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**GARY THOMAS**

RELATOR

vs.

**WARDEN TERRY TIBBALS**

RESPONDENT

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**JUDGMENT:  
PETITION DISMISSED**

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Writ of Habeas Corpus  
Order No. 449455

**RELEASE DATE:** November 21, 2011

**FOR RELATOR**

Gary Thomas, pro se  
Inmate #A601-988  
Mansfield Correctional Institution  
1150 N. Main Street  
Mansfield, Ohio 44901

**ATTORNEY FOR RESPONDENT  
WARDEN TERRY TIBBALS**

Mike DeWine  
Ohio Attorney General

By: Gregory T. Hartke  
Assistant Attorney General  
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615 West Superior Avenue  
Cleveland, Ohio 44113-1899

COLLEEN CONWAY COONEY, J.:

{¶ 1} Gary Thomas has filed a petition for a writ of habeas corpus seeking immediate release from prison. Sua sponte, we dismiss the petition for lack of territorial jurisdiction because Thomas is incarcerated at the Mansfield Correctional Institution located in Mansfield, Ohio.

{¶ 2} One of the basic requirements for the issuance of a writ of habeas corpus is that, regardless of where the petitioner was convicted, the petition can only be brought and proceed in the county where he is actually incarcerated. *Bridges v. McMackin* (1989), 44 Ohio St.3d 135, 541 N.E.2d 1035. This court does not possess the authority to order the release of a person from prison unless the prison lies within our territorial jurisdiction, which is Cuyahoga County. *State ex rel. Durham v. Wilson*, Cuyahoga App. No. 85928, 2005-Ohio-757; *State ex rel. Lewis v. Morgan* (June 17, 1999), Cuyahoga App. No. 76314; *State ex rel. Mays v. McFaul* (Mar. 18, 1999), Cuyahoga App. No. 75833. Since Thomas is not incarcerated in Cuyahoga County, we lack jurisdiction to address the petition for a writ of habeas corpus.

{¶ 3} Accordingly, we sua sponte dismiss the petition for a writ of habeas corpus.

Costs to Thomas. It is further ordered that the Clerk of the Eighth District Court of Appeals serve notice upon all parties as required by Civ.R. 58(B).

Petition dismissed.

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COLLEEN CONWAY COONEY, JUDGE

MARY J. BOYLE, P.J., and  
KATHLEEN ANN KEOUGH, J., CONCUR