

**IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
ASHTABULA COUNTY, OHIO**

BRIAN T. KEYES,	:	PER CURIAM OPINION
	:	
Petitioner,	:	CASE NO. 2012-A-0004
	:	
- vs -	:	
	:	
BARRY GOODRICH - WARDEN,	:	
	:	
Respondent.	:	

Original Action for Writ of Habeas Corpus

Judgment: Petition dismissed.

Brian T. Keyes, pro se, PID# A407718, Lake Erie Correctional Institution, P.O. Box 8000, Conneaut, OH 44030 (Petitioner).

Barry Goodrich, pro se, Lake Erie Correctional Institution, P.O. Box 8000, Conneaut, OH 44030 (Respondent).

PER CURIAM.

{¶1} This matter is before the court pursuant to a petition for writ of habeas corpus filed by petitioner, Brian T. Keyes, against respondent, Barry Goodrich, Warden of the Lake Erie Correctional Institution, and the motion to dismiss the petition filed by respondent. For the reasons below, we grant respondent’s motion to dismiss.

{¶2} On February 7, 2012, Keyes filed a petition for a writ of habeas corpus pursuant to R.C. 2725.01 and Article IV, Section 3(B)(1) of the Ohio Constitution. At the time of filing, Keyes was an inmate of the Lake Erie Correctional Institution and sought

habeas corpus relief based upon his contention that a September 24, 2002 sentencing entry, ordering him to serve nine years incarceration for a rape conviction, failed to properly notify him of the applicable post release control to which he would be subject. Keyes argued the sentencing entry is void and therefore his continued incarceration violates his Constitutional rights.

{¶3} In response to Keyes' petition, this court issued an alternative writ, ordering respondent to file either an answer or a motion to dismiss within 28 days. In compliance with that order, respondent filed a motion to dismiss. Respondent's motion to dismiss asserted Keyes' petition was filed in an improper venue, pursuant to Civ.R. 12(B)(3), and the pleading failed to state a claim, pursuant to Civ.R. 12(B)(6). On May 7, 2012, Keyes filed a "Motion to Amend Petition for Writ of Habeas Corpus." In the motion, Keyes noted that he had been transferred to Grafton Correctional Institution on April 25, 2012. Respondent filed nothing in response. Because, in April, Keyes was transferred to a penitentiary outside this court's territorial boundaries, we hold the Eleventh Appellate District is not the proper venue for his petition and grant respondent's motion.

{¶4} Although Keyes' petition was properly filed in this court in February, Keyes is now being held in Grafton. That correctional institution is located in Lorain County, a county within the territorial boundaries of the Ninth Appellate District. Keyes' transfer from Lake Erie Correctional Institution to Grafton Correctional Institution consequently divested this court of venue. As the Ninth Appellate District is the proper venue for Keyes to file his original action, we therefore dismiss Keyes' petition pursuant to Civ.R. 12(B)(3).

{¶5} For the above reason, respondent's motion to dismiss is granted and Keyes' habeas corpus petition is therefore dismissed.

CYNTHIA WESTCOTT RICE, J., MARY JANE TRAPP, J., THOMAS R. WRIGHT, J.,
concur.