

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

ERRICK THERMAINE BOLDEN,	:	PER CURIAM OPINION
Petitioner,	:	
- vs -	:	CASE NO. 2015-L-043
LAKE COUNTY SHERIFF,	:	
Respondent.	:	

Original Action for Writ of Habeas Corpus.

Judgment: Petition dismissed.

Errick Thermaine Bolden, pro se, PID: A662-301, Marion Correctional Institution, P.O. Box 57, 940 Marion-Williamsport Rd., Marion, OH 43302 (Petitioner).

Charles E. Coulson, Lake County Prosecutor, and *Michael L. DeLeone*, Assistant Prosecutor, Lake County Administration Building, 105 Main Street, P.O. Box 490, Painesville, OH 44077 (For Respondent).

PER CURIAM.

{¶1} Petitioner, Errick Thermaine Bolden, seeks a writ of habeas corpus against respondent, Lake County Sheriff, for his immediate release from imprisonment at the Lorain Correctional Institution. Respondent filed a motion to dismiss the petition based on Civ.R. 12(B)(6). For the reasons that follow, respondent’s motion to dismiss is hereby granted, and this action is dismissed.

{¶2} Petitioner, acting pro se, filed his verified petition for writ of habeas corpus on April 15, 2015. In his petition, petitioner states that he is an “inmate at the Lorain Correctional Institution, 2075 Avon Belden Road, Grafton, Ohio, 44044, in the custody of the Respondent, Lake County Sheriff, Ohio.”¹ Petitioner also claims ineffective assistance of counsel, prosecutorial misconduct, and judicial misconduct. He further claims a speedy trial violation.

{¶3} Upon review of petitioner’s petition, it is immediately apparent that it is defective on its face. A court may sua sponte dismiss a petition for an extraordinary writ for failure to state a claim upon which relief can be granted if the petition is frivolous or the claimant obviously cannot prevail on the facts alleged in the petition. *Hill v. Kelly*, 11th Dist. Trumbull No. 2011-T-0094, 2011-Ohio-6341, ¶4, citing *State ex rel. Thompson v. Spon*, 83 Ohio St.3d 551, 553 (1998); *State ex rel. Bruggeman v. Ingraham*, 87 Ohio St.3d 230, 231 (1999).

{¶4} Petitioner’s petition fails to comply with several statutory requirements for habeas relief. One of these requirements is that the petitioner must file all pertinent commitment papers along with the petition. R.C. 2725.04(D). Attaching only some of the paperwork is insufficient. *State ex rel. Johnson v. Ohio Dept. of Rehab. & Corr.*, 95 Ohio St.3d 70, 71 (2002). If any of the required commitment papers is not included with the petition, it is defective. *Id.* The Ohio Supreme Court has held that the commitment papers are necessary for a complete understanding of the petition. *Bloss v. Rogers*, 65 Ohio St.3d 145, 146 (1992). “When a petition is presented to a court that does not comply with R.C. 2725.04(D), there is no showing of how the commitment was procured

1. Petitioner is currently an inmate at the Marion Correctional Institution.

and there is nothing before the court on which to make a determined judgment except, of course, the bare allegations of petitioner's application." *Id.*

{¶5} The following holding of this court in *State ex rel. Cruz v. Sloan*, 11th Dist. Ashtabula No. 2014-A-0032, 2014-Ohio-5180, ¶12, is pertinent here: "Petitioner failed to attach the sentencing entry or any of his commitment papers. Without the full scope of petitioner's commitment papers, it would be impossible for us to fully understand the petition. Due to this defect, the petition must be dismissed."

{¶6} Further, when an inmate initiates any civil action or appeal against a government employee or entity, such as respondents, R.C. 2969.25(A) requires an affidavit of the inmate's prior civil actions to be filed at the same time the civil action or appeal is filed. R.C. 2969.25(A) applies to habeas filings. *Fuqua v. Williams*, 100 Ohio St.3d 211, 2003-Ohio-5533, ¶6-9. Belated attempts to file this affidavit cannot correct noncompliance with the statute. *Id.* at ¶9. Failure to timely file the required affidavit of prior civil actions mandates dismissal of the petition. *State ex rel. Washington v. Ohio Adult Parole Auth.*, 87 Ohio St.3d 258, 259 (1999).

{¶7} Petitioner has not filed an affidavit of his prior civil actions. For this additional reason, the petition is defective and must be dismissed. *Cruz, supra*, at ¶14.

{¶8} Additionally, as noted by relator, petitioner incorrectly named Daniel A. Dunlap, Lake County Sheriff, as a party to this action. Petitioner, at the time of filing the petition, was an inmate at the Lorain Correctional Institution and is currently an inmate at the Marion Correctional Institution; neither correctional institution is located in Lake County, Ohio, and therefore, the Lake County Sheriff is not the proper party.

{¶9} In summary, petitioner failed to file any commitment papers with his petition. He also failed to file an affidavit of prior civil actions along with the petition. In addition, he filed his petition against an incorrect party. Therefore, the petition must be and is hereby dismissed.

{¶10} Respondent's motion to dismiss is hereby granted.

{¶11} For the reasons stated in the per curiam opinion of this court, this action is dismissed.

TIMOTHY P. CANNON, P.J., DIANE V. GRENDALL, J., THOMAS R. WRIGHT, J.,
concur.