

[Cite as *State ex rel. Yeager v. Hall*, 2009-Ohio-3049.]

COURT OF APPEALS
RICHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO, EX. REL.
ANDRE YEAGER

Relator

-vs-

RICHARD HALL, WARDEN

Respondent

JUDGES:

Hon. Sheila G. Farmer, P.J.

Hon. William B. Hoffman, J.

Hon. John W. Wise, J.

Case No. 09 CA 71

OPINION

CHARACTER OF PROCEEDING:

Petition for Writ of Habeas Corpus

JUDGMENT:

Denied

DATE OF JUDGMENT ENTRY:

June 19, 2009

APPEARANCES:

For Relator

For Respondent

ANDREW YEAGER, PRO SE
P.O. Box 8107
Mansfield, Ohio 44901

NO APPEARANCE.

Farmer, P.J.

{¶1} Petitioner, Andre Yeager, has filed a Petition for Writ of Habeas Corpus alleging unlawful detention based upon the claim the trial court patently and unambiguously lacked jurisdiction to render judgment because the trial court failed to obtain a valid waiver of counsel prior to trial.

{¶2} Petitioner was found guilty by a jury of Engaging in a Pattern of Corrupt Activity and Intimidation of a Crime Witness. The trial court sentenced Petitioner to a term of six years on the charge of Engaging in a Pattern of Corrupt Activity and four years on the Intimidation count consecutive to one another for a total term of incarceration of ten years.

{¶3} The Supreme Court has held “habeas corpus is not available when there is an adequate remedy in the ordinary course of law.” *In re Complaint for Writ of Habeas Corpus for Goeller*, 103 Ohio St.3d 427, 2004-Ohio-5579, 816 N.E.2d 594, ¶ 6.

{¶4} In this case, Petitioner has or had an adequate remedy at law by way of an appeal or petition for post conviction relief. The Supreme Court has held,

{¶5} “Claims involving the ineffective assistance of counsel or the alleged denial of the right to counsel are not cognizable in habeas corpus. See, e.g., *Johnson v. Bobby*, 103 Ohio St.3d 96, 2004-Ohio-4438, 814 N.E.2d 61, ¶ 5; *Tucker v. Collins* (1992), 64 Ohio St.3d 77, 78, 591 N.E.2d 1241. As we held in *Tucker*, 64 Ohio St.3d at 78, 591 N.E.2d 1241:

{¶6} “[E]ven if appellant's claim of invalid waiver of counsel at trial were sustained, it would not be grounds for issuance of a writ of habeas corpus because the error did not deprive the trial court of jurisdiction over his case. Under R.C. 2725.05, if a

person is in custody by virtue of a judgment of a court of record and the court had jurisdiction to render the judgment, the writ of habeas corpus may not be allowed. The right to counsel is guaranteed by the Sixth Amendment to the Constitution of the United States. *Therefore, redress for a deprivation of the right should be sought via appeal or postconviction relief under R.C. 2953.21. Freeman v. Maxwell* (1965), 4 Ohio St.2d 4, 33 O.O.2d 2, 210 N.E.2d 885, certiorari denied (1966), 382 U.S. 1017, 86 S.Ct. 634, 15 L.Ed.2d 532.” (Emphasis added.)” *Bozsik v. Hudson*, 110 Ohio St.3d 245, 246.

{¶7} In fact, Petitioner raised this very issue before the Ninth District Court of Appeals which affirmed Petitioner’s convictions and found Petitioner’s waiver of counsel to be valid. *State v. Yeager*, (9th Dist.) 2005-Ohio-4932.

{¶8} For these reasons, Petitioner’s request for Writ of Habeas Corpus is denied.

By: Farmer, P.J.

Hoffman, J. and

Wise, J. concur.

s/SHEILA G. FARMER

s/WILLIAM B. HOFFMAN

s/JOHN W. WISE

JUDGES

IN THE COURT OF APPEALS FOR RICHLAND COUNTY, OHIO
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JUDGMENT ENTRY

Case No. 09 CA 71

For the reasons stated in our accompanying Memorandum-Opinion, the Petition for Writ of Habeas Corpus is denied. Costs to Relator.

s/SHEILA G. FARMER

s/WILLIAM B. HOFFMAN

s/JOHN W. WISE

JUDGES

SGF:jbp 0610