

[Cite as *Thomas v. Tibbals*, 2012-Ohio-1904.]

IN THE COURT OF APPEALS FOR RICHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

GARY THOMAS	:	JUDGES:
	:	Hon. Patricia A. Delaney, P.J.
Petitioner	:	Hon. Sheila G. Farmer, J.
	:	Hon. John W. Wise, J.
-vs-	:	
	:	CASE NO. 11CA119
TERRY TIBBALS, WARDEN	:	
	:	
	:	<u>OPINION</u>
Respondent	:	

CHARACTER OF PROCEEDING: Writ of Habeas Corpus

JUDGMENT: Dismissed

DATE OF JUDGMENT ENTRY: April 20, 2012

APPEARANCES:

For Petitioner:

Gary Thomas-A-601-988
Mansfield Correctional Camp
1150 N. Main Street
Mansfield, Ohio 44901

For Respondent:

No Appearance

Delaney, P.J.

{¶1} Petitioner, Gary Thomas, has filed an “Original Action in Habeas Corpus” as well as a Motion for Default Judgment. Petitioner alleges a writ of habeas corpus should be granted to release Petitioner from prison because Petitioner has not received proper jail time credit.

{¶2} According to the petition, Petitioner was sentenced to a term of incarceration in Cuyahoga County Common Pleas Case Number CR 08-507478. The conviction in that case was overturned by the Eighth District Court of Appeals. Petitioner was subsequently indicted in Cuyahoga County Common Pleas Case Number CR 10-545714. It is Petitioner’s position he should be released because he should have been given jail time credit in Case Number 10-545714 for the time served in Case Number 08-507478.

{¶3} The Supreme Court has held habeas corpus does not lie to challenge jail time credit, “[Petitioner] had an adequate remedy by appeal to raise any error by the trial court in calculating his jail-time credit. *State ex rel. Rudolph v. Horton*, 119 Ohio St.3d 350, 2008-Ohio-4476, 894 N.E.2d 49, ¶ 3.” *Hughley v. Saunders*, 123 Ohio St.3d 446, 2009-Ohio-5585, 917 N.E.2d 270, ¶ I.

{¶4} Because habeas corpus does not lie to challenge the trial court's failure to grant jail time credit, the petition is dismissed for failure to state a claim upon which relief may be granted.

By: Delaney, P.J.
Farmer, J. and
Wise, J. concur

HON. PATRICIA A. DELANEY

HON. SHEILA G. FARMER

HON. JOHN W. WISE

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Petitioner	:	
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-vs-	:	<u>JUDGMENT ENTRY</u>
	:	
TERRY TIBBALS, WARDEN	:	
	:	
	:	
Respondent	:	

For the reasons stated in our accompanying Memorandum-Opinion, this cause is dismissed.

Costs taxed to Petitioner.

HON. PATRICIA A. DELANEY

HON. SHEILA G. FARMER

HON. JOHN W. WISE

