[Cite as *Dukes v. Mahoning Cty. Sheriff*, 2026-Ohio-4271.]

IN THE COURT OF APPEALS OF OHIO

SEVENTH APPELLATE DISTRICT
MAHONING COUNTY

ANTHONY LOUIS DUKES III,

Relator,

v.

MAHONING COUNTY SHERIFF,

Respondent.

OPINION AND JUDGMENT ENTRY
Case No. 26 MA 0086

Writ of Habeas Corpus

BEFORE:
Cheryl L. Waite, Mark A. Hanni, Katelyn Dickey, Judges.

JUDGMENT:
Dismissed.

Anthony Louis Dukes III, Relator and

Atty. Lynn A. Maro, Mahoning County Prosecutor, and *Atty. Kathi McNabb Welsh,* Chief Assistant, Civil Division, for Respondent.

Dated: October 27, 2026

PER CURIAM.

{¶1} Relator Anthony Louis Dukes III, proceeding on his own behalf, petitions this Court for a writ of habeas corpus against Respondent, the Mahoning County Sheriff, in his official capacity as the officer alleged to have custody of Relator. The petition alleges that Relator is confined in the Mahoning County Jail and that the restraint arises from two cases in the Mahoning County Court No. 2. Relator asks this Court to require Respondent to establish the legal authority for the detention and to produce the warrants, affidavits, and judicial determinations relied on as that authority, and if that authority is not established, to order Relator discharged.

{¶2} Respondent has moved to dismiss the petition under Civ.R. 12(B)(6). The motion argues, among other things, that the petition does not comply with R.C. 2725.04 because no copy of the commitment or cause of detention accompanies it, and that Relator has not alleged any error depriving the trial court of jurisdiction.

{¶3} The petition is defective. Relator did not file with it a copy of the commitment or of the cause of his detention, and the petition neither alleges that such a copy could not be procured nor makes it appear that his detention is without legal authority. R.C. 2725.04(D). The petition also fails for a second, independent reason. It seeks no relief from Relator's bail or its conditions and alleges no patent and unambiguous lack of jurisdiction; every matter it raises could be addressed in the criminal case and on appeal, so Relator has an adequate remedy in the ordinary course of the law. For these reasons, the motion is granted and the petition is dismissed.

I. STATEMENT OF THE CASE

{¶4} Relator was arrested in connection with a Boardman Police Department case, and criminal charges were filed against him in three cases in the Mahoning County Court No. 2: disrupting public services (No. 2026 CR A 00426 BDM); domestic violence, obstructing official business, and resisting arrest (No. 2026 CR B 00427 BDM); and possession of drugs (No. 2026 CR A 00609 BDM). On July 14, 2026, after a preliminary hearing in each case, that court found probable cause, ordered Relator bound over to the Mahoning County Court of Common Pleas "to await the action of the Mahoning County Grand Jury," and continued his existing bond and restrictions. *State v. Dukes*, Mahoning Cty. Court No. 2, Case Nos. 2026 CR A 00426 BDM, 2026 CR B 00427 BDM, and 2026 CR A 00609 BDM (July 14, 2026). That was Relator's status when he filed his petition on July 31, 2026.

{¶5} Thirteen days later, on August 13, 2026, the grand jury returned a four-count indictment charging Relator with aggravated possession of drugs in violation of R.C. 2925.11(A) and (C)(1)(c), a second-degree felony; disrupting public services in violation of R.C. 2909.04(A)(3) and (C), a fourth-degree felony; domestic violence in violation of R.C. 2919.25(A) and (D)(2), a first-degree misdemeanor; and obstructing official business in violation of R.C. 2921.31(A) and (B), a second-degree misdemeanor. Relator pleaded not guilty at his arraignment on August 25, 2026, and the trial court set bond at $50,000 cash or surety. *State v. Dukes*, Mahoning C.P. No. 2026 CR 00543 (indictment, Aug. 13, 2026; arraignment entry, Aug. 25, 2026).

{¶6} Respondent attaches to his motion copies of public dockets in those proceedings and asks this Court to take notice of them. This Court takes judicial notice

of the entries described in the two preceding paragraphs, public records of the county court and the court of common pleas, for the fact that they were made; it does not decide whether the proceedings they record were lawful. *See State ex rel. Everhart v. McIntosh*, 2007-Ohio-4798, ¶ 10. The disposition that follows rests on the petition and the exhibits that are part of it.

{¶7} With the petition, Relator filed seven documents that the clerk docketed as miscellaneous filings. Each of the seven is either a filing Relator made in the county court in which criminal charges against him were then pending or a document attached to such a filing. The petition lists exhibits by letter and incorporates them by reference; one of them, Exhibit F, is a non-party's supporting affidavit set out in the petition itself rather than filed as a separate document. The clerk issued a summons on the writ of habeas corpus to Respondent on August 3, 2026, and sent the summons by certified mail. Counsel entered an appearance for Respondent on August 7, 2026. The petition is captioned for the Supreme Court of Ohio and invokes that court's original jurisdiction under Article IV, Section 2(B)(1)(c) of the Ohio Constitution. Relator filed it in this Court, however, and this Court treats it as invoking its original jurisdiction in habeas corpus. Ohio Const., art. IV, § 3(B)(1)(c); R.C. 2725.02.

{¶8} On September 1, 2026, Respondent moved to dismiss under Civ.R. 12(B)(6), arguing, among other things, that the petition does not comply with R.C. 2725.04 because no copy of the commitment or cause of detention accompanies it and that Relator, whom the motion describes as awaiting trial, has not alleged any error depriving the trial court of jurisdiction.

II. STATEMENT OF FACTS

{¶9} The petition alleges that Relator is confined in the Mahoning County Jail, that the restraint arises from two cases in the Mahoning County Court No. 2, and that he was arrested in connection with a Boardman Police Department case. It alleges that Relator has requested the documents establishing the legal authority for his arrest and continued detention, including any arrest warrant, sworn complaint, affidavit, and judicial probable-cause determination, and that, to the best of his knowledge, those records have not been fully produced.

{¶10} The petition pleads three counts. Count One alleges that Relator's continued restraint is unlawful absent a showing by Respondent of lawful constitutional authority for the arrest and the detention. Count Two invokes the guarantee of due process and asks this Court to determine whether Respondent has complied with the constitutional requirements governing Relator's arrest, confinement, and prosecution. Count Three asks for judicial review of whether the proceedings against Relator satisfy Article I, Section 10 of the Ohio Constitution. The prayer asks this Court to accept original jurisdiction, to issue the writ or an order to show cause, to require Respondent to produce the documents relied on as authority for the confinement, and to order Relator discharged if Respondent fails to establish lawful authority.

{¶11} The petition is accompanied by Relator's own filings in the county court and a letter from the United States Department of Justice concerning the removal of administrative law judges, and it contains a non-party's supporting affidavit designated Exhibit F. None of these documents is a copy of a commitment or of the cause of Relator's detention.

III. ANALYSIS

A. A motion to dismiss tests the sufficiency of the petition

{¶12} A motion to dismiss for failure to state a claim upon which relief can be granted is procedural and tests the sufficiency of the petition. *State ex rel. Hill v. LaRose*, 2019-Ohio-5444, ¶ 8 (7th Dist.). This Court has recognized that a defective petition for a writ of habeas corpus may be dismissed on such a motion. *Id.* at ¶ 8-9, 15. In deciding whether a habeas petition states a viable claim, the court asks whether the allegations are such that "'even when those allegations are construed in a manner most favorable to the petitioner, he will not be able to prove any set of facts under which he would be entitled to a writ.'" *Watson v. Altier*, 2006-Ohio-5831, ¶ 7 (11th Dist.), quoting *State ex rel. Peoples v. Warden*, 2003-Ohio-4106, ¶ 7 (11th Dist.). In applying that standard, the court "can consider the basic allegations in the petition itself and any materials attached to the petition." *Peoples* at ¶ 7. A copy of a written instrument attached to a pleading "is a part of the pleading for all purposes." Civ.R. 10(C).

B. The petition does not satisfy R.C. 2725.04(D)

{¶13} R.C. 2725.01 permits a person unlawfully restrained of liberty to prosecute a writ of habeas corpus to inquire into the cause of the restraint. The application for the writ is governed by R.C. 2725.04, which provides that it "shall be by petition, signed and verified either by the party for whose relief it is intended, or by some person for him," and which requires the petition to specify the matters set out in the statute's four divisions. Division (D) provides that "[a] copy of the commitment or cause of detention of such person shall be exhibited, if it can be procured without impairing the efficiency of the

remedy; or, if the imprisonment or detention is without legal authority, such fact must appear." R.C. 2725.04(D).

{¶14} This Court has held that R.C. 2725.04(D) "requires the petitioner to file all the pertinent commitment papers along with the petition," that "[a]ttaching only some of the paperwork is insufficient," and that "[i]f any required commitment papers are not included with the petition, it is defective and will be dismissed." *Hill* at ¶ 9. Generally, "a habeas petitioner's failure to comply with the applicable statutory requirements warrants dismissal of the petition." *State ex rel. Norris v. Wainwright*, 2019-Ohio-4138, ¶ 7. The requirement exists because, without the commitment papers, "there is no showing of how the commitment was procured and there is nothing before the court on which to make a determined judgment except, of course, the bare allegations of petitioner's application." *Bloss v. Rogers*, 65 Ohio St.3d 145, 146 (1992), quoted in *Hill* at ¶ 9.

{¶15} The commitment-paper requirement applies to a person held to answer criminal charges before trial. *See Davis v. Sheldon*, 2020-Ohio-436, ¶ 2-3, 8 (the petition of a person held in jail on a felony charge before indictment was fatally defective because the petitioner did not attach any commitment papers); *Bonar v. Zusack*, 2025-Ohio-1822, ¶ 1, 17-19 (7th Dist.) (dismissing as defective the petition of a pretrial detainee who provided "neither commitment papers nor an explanation for their absence"). For such a person, the pertinent commitment papers may include the charging instrument and the order that sets bail or otherwise directs that the person be held. *See Chari v. Vore*, 2001-Ohio-49, ¶ 14 (in a sheriff's return under R.C. 2725.14, the petitioner's bail-bond order was the paper "that authorized his imprisonment until the bond was posted," and his own petition had included that order and the indictment under which he was held). Relator

filed no commitment papers: no copy of any order, complaint, or other paper under which Respondent has held him accompanies the petition.

{¶16} Division (D) dispenses with the copy in two circumstances: when it cannot be procured without impairing the efficiency of the remedy and when the detention is without legal authority, in which case "such fact must appear." R.C. 2725.04(D). The petition evinces neither circumstance. It alleges that Relator asked for the documents establishing the legal authority for his arrest and detention, including any sworn complaint and judicial probable-cause determination, and that, to the best of his knowledge, those records "have not been fully produced." (Petition at 2.) Read in his favor, the allegation is that his requests were not fully answered. The allegation is not that a copy of the commitment or cause of detention could not be procured. The first alternative requires at least that much: a petition that lacks "even a conclusory allegation" that the papers could not be procured is not excused from filing them. *Goudlock v. Voorhies*, 2008-Ohio-4787, ¶ 15. The petition also leaves unexplained the absence of papers Relator did receive. Relator's own exhibit, captioned in the two cases the petition names, states that the State provided him "the four criminal complaints," and those complaints are not among the documents filed with the petition. (Writ of Discovery at ¶ 3.) Whether any other papers may have a bearing on his detention, the petition gives no reason for omitting these complaints.

{¶17} The petition also does not allege facts showing that Relator's detention is without legal authority. It alleges that Relator has asked for the documents that would establish that authority; that, to his knowledge, they have not been fully produced; and that his restraint is unlawful if Respondent does not make the showing Relator requests.

The burden of establishing a right to release, however, rests on the petitioner. *Hill*, 2019-Ohio-5444, at ¶ 7 (7th Dist.). The officer's duty to set forth in a return the authority and cause of a detention, R.C. 2725.14(B), arises under a writ that has been allowed, and the writ is allowed only when the petition states a facially valid claim. *Chari* at ¶ 19-20. A demand that a respondent establish the lawfulness of a detention, therefore, does not establish that the detention is without legal authority.

{¶18} Two of the exhibits go further. In his sworn declaration, Relator states that on or about May 1, 2026, he was arrested without a warrant, and in his demand for immediate release, he asserts that his restraint without an indictment violates Article I, Section 10 of the Ohio Constitution. Neither assertion shows that his detention is without legal authority. As to the arrest, the Supreme Court of Ohio has stated that "a warrant is not essential to a valid arrest." *Brown v. Maxwell*, 174 Ohio St. 29, 29 (1962). Moreover, habeas corpus is not "the appropriate vehicle to raise claims related to arrest." *Patrick v. Bunting*, 2017-Ohio-6954, ¶ 7. As to the indictment, the demand for immediate release which Relator filed in the county court states that, when he made it, he was held under a bond in a criminal case pending in that court. The absence of an indictment does not, standing alone, make detention before indictment unlawful. The Rules of Criminal Procedure contemplate that a person charged with a felony may be held in custody before any indictment is returned: they require that a preliminary hearing be scheduled no later than ten consecutive days after arrest "if the defendant is in custody," provide that the hearing "shall not be held, however, if the defendant is indicted," and direct the judge, on a finding of probable cause, to bind the defendant over to the court of common pleas. Crim.R. 5(B)(1); Crim.R. 5(B)(4)(a).

{¶19} The petition does not comply with R.C. 2725.04(D), and it is defective for that reason.

C. Relator has an adequate remedy in the ordinary course of the law

{¶20} The petition fails for a second, independent reason. The writ of habeas corpus "is an extraordinary writ and will only be issued in certain circumstances of unlawful restraint of a person's liberty where there is no adequate legal remedy at law, such as a direct appeal or postconviction relief." *Hill*, 2019-Ohio-5444, at ¶ 6 (7th Dist.). A claim of excessive bail is one such circumstance: "Habeas corpus is the proper vehicle by which to raise a claim of excessive bail in pretrial-release cases." *DuBose v. McGuffey*, 2022-Ohio-8, ¶ 12. Reviewing three cases in which habeas corpus was held available to challenge bail, the Supreme Court of Ohio explained that "[w]hat those three cases have in common is the absence of an available remedy in the ordinary course of the law to challenge the petitioner's confinement." *State ex rel. Garcia v. Baldwin*, 2023-Ohio-1636, ¶ 29. Where such a remedy exists, habeas corpus does not lie even for a claim concerning bail: the accused in *Garcia* was held without bail pending trial, and the court affirmed the dismissal of his habeas petition because the orders denying bail were appealable under R.C. 2937.222(D). *Id.* at ¶ 1, 30-31.

{¶21} The petition makes no claim concerning bail. Its prayer does not ask for release on bail, a reduction of bail, or relief from a condition of bail, and the petition does not allege that bail has been denied. Two of the exhibits touch on the subject. In his demand for immediate release, Relator states that he was then being held under a bond, and in his sworn declaration he states that he "was required to sign a protection order without any conviction." (Verified Demand for Immediate Release at ¶ 2; Affidavit / Sworn

Declaration at ¶ 6.) Read with the petition's allegations and prayer, neither states a claim for relief from bail or its conditions. The demand asks for release because Relator had not been indicted, not because of the amount or terms of his bond, and the declaration is made "to invoke and preserve" his rights under the Ohio Constitution and accompanies a demand for discovery. (Verified Demand for Immediate Release at ¶ 6 and prayer C; Affidavit / Sworn Declaration at ¶ 9.)

{¶22} The petition also does not allege a patent and unambiguous lack of jurisdiction in the county court or in any other court, and "[a]bsent a patent and unambiguous lack of jurisdiction, a party challenging a court's jurisdiction has an adequate remedy at law by appeal." *Smith v. Bradshaw*, 2006-Ohio-1829, ¶ 10, quoted in *Hill* at ¶ 6. One of Relator's exhibits, a verified demand he filed in the county court, challenges the county court's subject-matter and personal jurisdiction and demands that the State establish both. A demand that the State prove jurisdiction does not show that jurisdiction is patently and unambiguously lacking.

{¶23} What the petition does seek is production of the documents underlying Relator's arrest and a determination whether the proceedings against him have satisfied constitutional requirements. Those are, in the first instance, questions for the trial court in the criminal case, and any error in their resolution is reviewable on appeal from a conviction. *See Watson*, 2006-Ohio-5831, at ¶ 5-6 (11th Dist.) (a question concerning the suppression of evidence cannot be litigated in habeas corpus because the trial court's ruling on it does not affect that court's jurisdiction, and the ruling and a direct appeal from any resulting conviction are adequate remedies). An extraordinary writ is not the vehicle for those questions. Relator's own exhibits show him pursuing those questions in the trial

court: in the county court, he moved to dismiss the charges because the State had not produced the warrants and affidavits he sought, and he demanded his release under Article I, Section 10 of the Ohio Constitution, on which Count Three rests. This Court has applied the same rule to a claim arising before indictment, affirming the dismissal of a convicted prisoner's habeas petition that asserted the denial of a preliminary hearing, because the claim could have been raised on direct appeal. *Yates v. Eberlin*, 2005-Ohio-4763, ¶ 5-6, 10 (7th Dist.).

{¶24} As to the claim in Relator's demand for immediate release, that he could not be held without an indictment, the law also provides a remedy before trial. When a person who has been committed to jail on a charge for which no indictment has been returned claims to be unlawfully detained, the sheriff, on demand of the accused, "shall forthwith notify the court of common pleas, and the prosecuting attorney, to attend an examining court," and the court, after hearing the cause, "may admit to bail, release without bond, or recommit to jail in accordance with the commitment." R.C. 2937.34. By his own account, when he made that demand, Relator was held under a bond in a case in which he had not been indicted. Relator therefore has an adequate remedy in the ordinary course of the law, and the petition fails to state a claim in habeas corpus for that reason as well.

IV. CONCLUSION

{¶25} Relator did not file with his petition a copy of the commitment or of the cause of his detention, and his petition neither alleges that such a copy could not be procured nor makes it appear that his detention is without legal authority. The petition is defective. The petition also fails for a second, independent reason: it seeks no relief from Relator's

bail or its conditions and alleges no patent and unambiguous lack of jurisdiction. Every matter it raises could be addressed in the criminal case and on appeal, so Relator has an adequate remedy in the ordinary course of the law.

{¶26} Respondent's motion to dismiss is granted, and Relator's petition for a writ of habeas corpus is dismissed. The seven documents Relator filed with his petition are exhibits rather than motions addressed to this Court; to the extent that any of them is construed as a motion pending here, it is overruled as moot. Costs taxed against Relator. Loc.R. 3.5. Final order. The clerk of courts is directed to serve upon all parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

JUDGE CHERYL L. WAITE

JUDGE MARK A. HANNI

JUDGE KATELYN DICKEY

TO THE CLERK: PLEASE SERVE COPIES OF THIS ORDER TO ALL COUNSEL OF RECORD AND ANY SELF-REPRESENTED PARTIES.