

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

DAJHAWN TAYLOR,	:	
Petitioner,	:	
v.	:	No. 113030
STATE OF OHIO,	:	
Respondent.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: PETITION DISMISSED
DATED: August 4, 2023

Writ of Habeas Corpus
Order No. 566507

Appearances:

Dajhawn Taylor, *pro se*.

MARY J. BOYLE, J.:

{¶ 1} On July 28, 2023, the petitioner, Dajhawn Taylor, commenced this habeas corpus petition that he styled “Dajhawn Taylor v. State of Ohio.” He alleges that he is being illegally detained because neither a judge nor a magistrate found probable cause for the commission of a felony in the underlying case, *State v. Taylor*, Cuyahoga C.P. No. CR-23-678627-B. Nor is there any record of a bindover hearing. For the following reasons, this court dismisses the petition, sua sponte.

{¶ 2} First, the petition is fatally defective. R.C. 2725.04(D) requires a habeas corpus petitioner to include a copy of the commitment or cause of detention. Taylor attached nothing. Failure to comply with R.C. 2725.04(D) subjects the petition to dismissal. *Davis v. Sheldon*, 159 Ohio St.3d 147, 2020-Ohio-436, 149 N.E.3d 467 and *Griffin v. McFaul*, 116 Ohio St.3d 30, 2007-Ohio-5506, 876 N.E.2d 527.

{¶ 3} R.C. 2725.04 further requires the petition to be verified. In *Chari v. Vore*, 91 Ohio St.3d 323, 2001-Ohio-49, 744 N.E.2d 763, the Supreme Court of Ohio ruled: “‘Verification’ means a ‘formal declaration made in the presence of an authorized officer, such as a notary public, by which one swears to the truth of the statement in the document.’ Garner, Black’s Law Dictionary (7 Ed.1999) 1556 * * *.” The Supreme Court of Ohio then reversed the court of appeals’ granting of the writ and awarding of relief and held that the cause should have been summarily dismissed because the petition was procedurally defective. Taylor’s failure to verify his petition requires its dismissal. *Griffin v. McFaul*, 116 Ohio St.3d 30, 2007-Ohio-5506, 876 N.E.2d 527.

{¶ 4} Taylor also did not comply with R.C. 2969.25(C), which requires that an inmate file a certified statement from the institutional cashier setting forth the balance in the petitioner’s private account for each of the preceding six months. Nor did he tender a poverty affidavit or payment of filing fees. This also is sufficient reason to deny the petition, deny indigency status, and assess costs against him. *State ex rel. Pamer v. Collier*, 108 Ohio St.3d 492, 2006-Ohio-1507, 844 N.E.2d

842; *Griffin, supra*; and *State ex rel. Hunter v. Cuyahoga Cty. Court of Common Pleas*, 88 Ohio St.3d 176, 2000-Ohio-285, 724 N.E.2d 420.

{¶ 5} Taylor failed to name the proper respondent. R.C. 2725.04(B) requires that the petitioner specify the officer or name of the person by whom the prisoner is so confined or restrained. In *Hamilton v. Collins*, 11th Dist. Lake No. 2003-L-094, 2003-Ohio-4104, ¶3, the court of appeals held that in considering the legal sufficiency of habeas corpus claim, “such claims can be maintained only against the jailer or warden who presently has legal custody of the individual.” Naming “Ohio, et al” as the respondent does not fulfill this requirement. *Bell v. State*, 8th Dist. Cuyahoga No. 84408, 2004-Ohio-1906, and *Bailey v. Ohio*, 8th Dist. Cuyahoga No. 112756, 2023-Ohio-2396. Similarly, Taylor did not include the names and addresses of all of parties as required by Civ.R. 10(A). *Bell, id.*

{¶ 6} The gravamen of Taylor’s petition is that because he did not have a preliminary hearing, he should be immediately discharged. However, an indictment by the grand jury renders any defects in the preliminary hearing moot. In the present case, the grand jury indicted Taylor of aggravated murder, murder, and felonious assault. Thus, habeas corpus will not lie to effect his immediate discharge for failure to hold a preliminary hearing when the grand jury has indicted him. *Clarke v. McFaul*, 8th Dist. Cuyahoga No. 89436, 2007-Ohio-1592. Furthermore, habeas corpus is not available to challenge the sufficiency of the evidence. *State ex rel. Tarr v. Williams*, 112 Ohio St.3d 51, 2006-Ohio-6368, 857 N.E.2d 1225, ¶ 4.

{¶ 7} Accordingly, this court dismisses Taylor’s petition for habeas corpus. Petitioner to pay costs. This court directs the clerk of courts to serve all parties notice of the judgment and its date of entry upon the journal as required by Civ.R. 58(B).

{¶ 8} Petition dismissed.

MARY J. BOYLE, JUDGE

FRANK DANIEL CELEBREZZE, III, P.J., and
KATHLEEN ANN KEOUGH, J., CONCUR