

[Cite as *State ex rel. Thomas v. Black*, 2022-Ohio-39.]

STATE OF OHIO                    )  
  )ss:  
COUNTY OF LORAIN            )

IN THE COURT OF APPEALS  
NINTH JUDICIAL DISTRICT

STATE EX REL. MARCELLUS  
THOMAS

C.A. No. 21CA011777

Petitioner

v.

JENNIFER GILLECE BLACK, WARDEN

ORIGINAL ACTION IN HABEAS  
CORPUS

Respondent

Dated: January 10, 2022

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PER CURIAM.

{¶1} Petitioner, Marcellus Thomas, petitioned this Court for a writ of habeas corpus to compel Respondent, Warden Jennifer Gillece Black, to release him from custody. Warden Black moved for summary judgment; Mr. Thomas did not respond to the motion for summary judgment. Because Mr. Thomas has been released from custody, this matter is moot and this Court dismisses this case.

{¶2} State habeas corpus relief is available in specific, extraordinary circumstances. R.C. Chapter 2725 prescribes the procedure for bringing a habeas corpus action. For this Court to grant the writ, the petitioner must demonstrate that there is an unlawful restraint of his liberty or that the judgment of conviction and sentence is void due to lack of jurisdiction. *Pegan v. Crawmer*, 76 Ohio St.3d 97, 99-100 (1996). One critical aspect of this claim is that the petitioner must be in custody.

{¶3} If the petitioner is released after filing the action, the petitioner’s claim is rendered moot. *State ex rel. Hawkins v. Haas*, 141 Ohio St.3d 98, 2014-Ohio-5196, ¶ 4. The Supreme Court has looked to the Ohio Department of Rehabilitation and Correction’s Offender Search website to determine whether a petitioner remains in custody. *Id.* In *Hawkins*, the Supreme Court determined that the habeas corpus action was moot because the petitioner was no longer in custody. *Id.* See, also, *Cruse v. Bradshaw*, 108 Ohio St.3d 212, 2006-Ohio-663, ¶ 5.

{¶4} Turning to this case, in her motion for summary judgment, Warden Black identified petitioner’s release date as the end of October 2021. Mr. Thomas did not respond to the motion for summary judgment. This Court has reviewed the Ohio Department of Rehabilitation and Correction’s Offender Search website and determined that Mr. Thomas is no longer in the custody of the Ohio Department of Rehabilitation and Corrections.

{¶4} Mr. Thomas is no longer in the custody of the Ohio Department of Rehabilitation and Corrections. Accordingly, this habeas corpus action is moot.

{¶5} Because this action is moot, the case is dismissed. Costs are taxed to petitioner.

{¶6} The clerk of courts is hereby directed to serve upon all parties not in default notice of this judgment and its date of entry upon the journal. See Civ.R. 58(B).

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DONNA J. CARR  
FOR THE COURT

TEODOSIO, J.  
SUTTON, J.  
CONCUR.

APPEARANCES:

JAMES SIDNEY JONES, Attorney at Law, for Petitioner.

DAVE YOST, Attorney General, and LISA K. BROWNING, Senior Assistant Attorney General, for Respondent.