

IN THE COURT OF APPEALS OF OHIO

SEVENTH APPELLATE DISTRICT
BELMONT COUNTY

ALDO PEREZ,

Petitioner,

v.

WARDEN, BELMONT CORRECTIONAL INSTITUTION,

Respondent.

OPINION AND JUDGMENT ENTRY
Case No. 21 BE 0008

Writ of Habeas Corpus

BEFORE:

David A. D'Apolito, Cheryl L. Waite, Carol Ann Robb, Judges.

JUDGMENT:

Dismissed.

Aldo Perez, Pro Se, # 714-563, Belmont Correctional Institution, P.O. Box 540, St. Clairsville, Ohio 43950, Petitioner and

Atty. Dave Yost, Ohio Attorney General, and *Atty. Jerri L. Fosnaught*, Assistant Attorney General, Criminal Justice Section, 30 East Broad Street, 23rd Floor, Columbus, Ohio 43215, for Respondent.

Dated: September 15, 2021

PER CURIAM.

{¶1} Petitioner Aldo Perez has filed this original action seeking a writ of habeas corpus arguing the trial court lacked personal jurisdiction to issue his judgment entry of conviction and sentence. Petitioner is a self-represented prison inmate and his handwritten complaint names as party respondent the Warden of the Belmont Correctional Institution. Counsel for Respondent has filed a motion to dismiss. The Court sustains Respondent's motion to dismiss and dismisses the petition accordingly.

{¶2} Petitioner's complaint offers little in the way of an explanation as to how he became imprisoned in Respondent's facility. He references counts 35, 40, and 42 of his indictment, each drug-related offenses, but only to illustrate that he was arrested following the dates listed for those offenses but before the date of the issuance of the indictment. More specifically, he contends he was arrested without a warrant, depriving the trial court of jurisdiction over him.

{¶3} Petitioner cites to the introductory section of Chapter 2725, which authorizes a court to grant habeas corpus relief: "Whoever is unlawfully restrained of his liberty, or entitled to the custody of another, of which custody such person is unlawfully deprived, may prosecute a writ of habeas corpus, to inquire into the cause of such imprisonment, restraint, or deprivation." R.C. 2725.01. But the petition ignores the remainder of that chapter which contains specific filing requirements. The failure to satisfy these statutory requirements is generally fatal to the petition. One of the more important requirements as alluded to above is that the petitioner must file all pertinent commitment papers relevant to the arguments being raised in the petition:

Application for the writ of habeas corpus shall be by petition, signed and verified either by the party for whose relief it is intended, or by some person for him, and shall specify:

* * *

(D) 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).

{¶4} The Ohio Supreme Court has acknowledged the necessity and importance of these papers:

These commitment papers are necessary for a complete understanding of the petition. Without them, the petition is fatally defective. When a petition is presented to a court that does not comply with R.C. 2725.04(D), 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, 602 N.E.2d 602 (1992).

{¶5} Here, Petitioner has not included any commitment papers. Without them, it simply is not possible to even begin a preliminary evaluation of the nature of his claim. Therefore, Respondent's motion to dismiss is granted and Petitioner's original action for a writ of habeas corpus is dismissed.

{¶6} Final order. Clerk to service notice as provided by the Rules of Civil Procedure. No costs assessed.

JUDGE DAVID A. D'APOLITO

JUDGE CHERYL L. WAITE

JUDGE CAROL ANN ROBB