

IN THE COURT OF APPEALS OF OHIO  
TENTH APPELLATE DISTRICT

State ex rel. Sell Jefferson,	:	
	:	
Petitioner,	:	
	:	
v.	:	No. 19AP-366
	:	
Ohio Department of Rehabilitation and Correction,	:	(REGULAR CALENDAR)
	:	
Respondent.	:	
	:	

---

D E C I S I O N

Rendered on September 30, 2019

---

**On brief:** *Sell Jefferson, pro se.*

---

IN MANDAMUS/HABEAS CORPUS  
ON OBJECTION TO THE MAGISTRATE'S DECISION

DORRIAN, J.

{¶ 1} Petitioner, Sell Jefferson, has filed this original action asserting he is entitled to a writ of mandamus ordering respondent, Ohio Department of Rehabilitation and Correction ("ODRC"), to release him from custody.

{¶ 2} Pursuant to Civ.R. 53 and Loc.R. 13(M) of the Tenth District Court of Appeals, this matter was referred to a magistrate who issued a decision, including findings of fact and conclusions of law, which is appended hereto. The magistrate considered the writ of mandamus as a writ of habeas corpus and determined that because petitioner is incarcerated in Marion County, but filed his writ of habeas corpus in Franklin County, this court does not have jurisdiction over the writ pursuant to R.C. 2725.03 and *Bridges v. McMackin*, 44 Ohio St.3d 135 (1989). Therefore, the magistrate recommended this court dismiss petitioner's writ of mandamus/habeas corpus.

{¶ 3} Petitioner filed an objection to the magistrate's decision, which we have paraphrased as follows: The magistrate erred in not sua sponte construing petitioner's writ of mandamus as a writ of habeas corpus and in dismissing the writ for lack of territorial jurisdiction since the ODRC is located in Franklin County, Ohio.

{¶ 4} As noted above, the magistrate did sua sponte consider petitioner's writ of mandamus as a writ of habeas corpus. Therefore, we find no error as petitioner has alleged. Furthermore, we find no error with the magistrate dismissing the writ for lack of territorial jurisdiction. In *Goudlock v. Voorhies*, 119 Ohio St.3d 398, 2008-Ohio-4787, the Supreme Court of Ohio held that an inmate's petition for a writ of habeas corpus was properly dismissed because the inmate filed the petition in a county in which the inmate was not incarcerated, contrary to the jurisdictional requirements of R.C. 2725.03. This case, like *Goudlock*, involves a petitioner who incorrectly filed a habeas corpus action in a county in which he is not confined. Accordingly, dismissal of the writ for lack of territorial jurisdiction is proper. See *State ex rel. Turner v. Bunting*, 10th Dist. No. 15AP-605, 2016-Ohio-1325; *Montroe v. Ghee*, 10th Dist. No. 02AP-1308, 2003-Ohio-2584; Civ.R. 12(H)(3). Therefore, considering the above, petitioner's objection is overruled.

{¶ 5} Following review of the magistrate's decision, an independent review of the record, and due consideration of petitioner's objection, we find the magistrate properly determined the facts and applied the appropriate law. Therefore, we adopt the magistrate's decision as our own, including the findings of fact and conclusions of law contained therein. In accordance with the magistrate's decision, the writ of mandamus/habeas corpus is dismissed.

*Objection overruled;  
action dismissed.*

BRUNNER and NELSON, JJ., concur.

---

**APPENDIX**

**IN THE COURT OF APPEALS OF OHIO**

**TENTH APPELLATE DISTRICT**

The State ex rel. Sell Jefferson,	:	
	:	
Relator,	:	
	:	
v.	:	No. 19AP-366
	:	
Ohio Department of Rehabilitation and Correction,	:	(REGULAR CALENDAR)
	:	
Respondent.	:	
	:	

---

**MAGISTRATE'S DECISION**

**Rendered on June 26, 2019**

---

*Sell Jefferson, pro se.*

---

**IN MANDAMUS  
ON SUA SPONTE DISMISSAL**

{¶ 6} Relator, Sell Jefferson, has filed this original action asserting that he is entitled to a writ of mandamus ordering the respondent, Ohio Department of Rehabilitation and Correction ("ODRC"), to release him from incarceration as he has already served his sentence in full.

**Findings of Fact:**

{¶ 7} 1. Relator is an inmate currently incarcerated in Marion Correctional Institution.

{¶ 8} 2. Marion Correctional Institution is located in the city of Marion and in the county of Marion.

{¶ 9} 3. Although relator has entitled this as a mandamus action, what he actually seeks here is a writ of habeas corpus ordering ODRC to release him from custody.

{¶ 10} 4. Relator has filed this habeas corpus action in Franklin County, Ohio.

Conclusions of Law:

{¶ 11} For the reasons that follow, it is this magistrate's decision that this court should sua sponte dismiss this action because, under R.C. 2725.03, this court lacks territorial jurisdiction over relator in this habeas corpus action.

{¶ 12} R.C. 2725.03 allocates habeas jurisdiction among the courts of appeals on a territorial basis. R.C. 2725.03 states in its entirety:

If a person restrained of his liberty is an inmate of a state benevolent or correctional institution, the location of which is fixed by statute and at the time is in the custody of the officers of the institution, no court or judge other than the courts or judges of the county in which the institution is located has jurisdiction to issue or determine a writ of habeas corpus for his production or discharge. Any writ issued by a court or judge of another county to an officer or person in charge at the state institution to compel the production or discharge of an inmate thereof is void.

{¶ 13} The Supreme Court of Ohio has held that R.C. 2725.03 is constitutional. *Bridges v. McMackin*, 44 Ohio St.3d 135, 541 N.E.2d 1035 (1989). While Article IV, Section 3(B)(1)(c), Ohio Constitution gives each court of appeals original jurisdiction in habeas corpus, it does not guarantee that such jurisdiction shall be statewide.

{¶ 14} Relator does not argue that his sentence has been miscalculated. Instead, relator asserts that he has served his sentence in full and, as a result, asks this court to order his release from incarceration. It is clear this court lacks jurisdiction in habeas corpus over relator, who is confined in Marion County, Ohio. The action must be dismissed. See *State ex rel. Hewitt v. Ohio Adult Parole Auth.*, 10th Dist. No. 15AP-829, 2016-Ohio-1189.

{¶ 15} Accordingly, it is the magistrate's decision that this court dismiss this action.

/S/ MAGISTRATE  
STEPHANIE BISCA

**NOTICE TO THE PARTIES**

**Civ.R. 53(D)(3)(a)(iii) provides that a party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ.R. 53(D)(3)(b).**