

[Cite as *Nash v. State*, 2007-Ohio-4675.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 90071

TIMOTHY M. NASH

RELATOR

vs.

**STATE OF OHIO,
GERALD T. MCFAUL, SHERIFF**

RESPONDENT

**JUDGMENT:
PETITION DISMISSED**

WRIT OF HABEAS CORPUS
MOTION NO. 399212

ORDER NO. 399897

RELEASE DATE: September 12, 2007

FOR RELATOR:

Timothy M. Nash, pro se
Inmate No. 501-327
Cuyahoga County Jail
P.O. Box 5600
Cleveland, Ohio 44101

ATTORNEY FOR RESPONDENT:

William D. Mason
Cuyahoga County Prosecutor
By: Pamela Bolton
Assistant County Prosecutor
8th Floor Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

JUDGE ANN DYKE:

{¶1} On June 29, 2007, petitioner Timothy Nash filed a petition for writ of habeas corpus. Nash, the defendant in *State v. Nash*, Cuyahoga County Court of Common Pleas Case Nos. CR-493755 and CR-490706, asks this court to issue the writ because of several alleged procedural irregularities. On July 27, 2007, the respondent, through the Cuyahoga County Prosecutor, filed a motion to dismiss. For the following reasons, we grant the motion to dismiss the petition. Initially we note that Nash failed to comply with R.C. 2969.25 which requires the attachment of

an affidavit describing each civil action or appeal filed by the relator within the previous five years in any state or federal court. *State ex rel. Zanders v. Ohio Parole Board*, 82 Ohio St. 3d 421, 1998-Ohio-218, 696 N.E.2d 594; *State ex rel. Alford v. Winters*, 80 Ohio St. 3d 285, 1997-Ohio-117, 685 N.E.2d 1242; *In Re: Woods* (Apr. 26, 2001), Cuyahoga App. No. 79467; *Clark v. State* (May 17, 2001), Cuyahoga App. No. 79584.

{¶2} Furthermore, “habeas corpus is not a substitute for appeal and does not provide a remedy for errors or irregularities that may be addressed on appeal.” *State ex rel. Moore v. Ohio Adult Parole Auth.*, Cuyahoga App. No. 81757, 2003-Ohio-1844. In *State v. Nash*, Cuyahoga County Court of Common Pleas, Case No. CR-490706, Nash was convicted of drug possession and sentenced to prison for three years. Consequently, all procedural and substantive errors that Nash claims in his petition must be raised on appeal. In *State v. Nash*, Cuyahoga County Court of Common Pleas, Case No. CR-493755, a review of the lower court’s docket indicates that the case was dismissed on July 20, 2007, thereby rendering the petition as to that matter moot.

{¶3} Accordingly, we grant the motion to dismiss Nash’s habeas corpus petition. Nash to pay costs. It is further ordered that the clerk shall serve upon all parties notice of this judgment and date of entry pursuant to Civ.R. 58(B).

Petition dismissed.

ANN DYKE, JUDGE

PATRICIA A. BLACKMON, P.J., and
CHRISTINE T. MCMONAGLE, J., CONCUR