

[Cite as *Rayford v. Shaffer*, 2010-Ohio-784.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 94629

GEORGE RAYFORD

RELATOR

vs.

WARDEN SHAFFER

RESPONDENT

**JUDGMENT:
PETITION DISMISSED**

Writ of Habeas Corpus

Order No. 431061

RELEASE DATE: March 3, 2010

FOR RELATOR

George Rayford, pro se
S.O. #Inmate 0231024
Cuyahoga County Jail
P.O. Box 5600
Cleveland, Ohio 44101

ATTORNEYS FOR RESPONDENT

William D. Mason
Cuyahoga County Prosecutor
8th Floor Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

MARY EILEEN KILBANE, J.:

George Rayford, the petitioner, has filed a petition for a writ of habeas corpus. For the following reasons, we sua sponte dismiss Rayford's petition for a writ of habeas corpus

Rayford's petition for a writ of habeas corpus is procedurally defective for the following reasons:

(1) petition fails to contain a sworn and notarized affidavit that complies with Loc.App.R. 45(B)(1)(a);

(2) petition fails to contain a sworn and notarized affidavit of indigency;

(3) petition fails to contain a statement that sets forth balance in inmates account for the preceding six months and/or all of the cash and things of value owned by the inmate, as required by R.C. 2969.25;

(4) petition fails to contain a sworn and notarized affidavit that describes each civil action or appeal filed within the previous five years in any state or federal court; and

(5) petition fails to contain copies of all pertinent commitment papers as required by R.C. 2725.04(D).

See *Tisdale v. Eberlin*, 114 Ohio St.3d 201, 2007-Ohio-3833, 870 N.E.2d 1191; *Chari v. Vore*, 91 Ohio St.3d 323, 2001-Ohio-49, 744 N.E.2d 763. See, also, *State ex rel. Leon v. Cuyahoga Cty. Court of Common Pleas*, 123 Ohio St.3d 124, 2009-Ohio-4688, 914 N.E.2d 402; *Martin v. Woods*, 121 Ohio St.3d 609, 2009-Ohio-1928, 906 N.E.2d 1113; *Humphrey v. Ohio Water Parks, Inc.* (1994), 97 Ohio App.3d 403, 646 N.E.2d 908; *State ex rel. Davis*, Cuyahoga App. No. 90533, 2008-Ohio-584; *Morris v. Bureau of Sentence Computation*, Cuyahoga App. No. 89517, 2007-Ohio-1444; *State ex rel. McKay v. Corrigan*, Cuyahoga App. No. 88340.

It must also be noted that Rayford's petition fails to state a claim upon which relief can be granted. Habeas corpus is not available to challenge the validity of a charging instrument. *Shroyer v. Banks*, 123 Ohio St.3d 88,

2009-Ohio-4080, 914 N.E.2d 368; *McCuller v. Hudson*, 121 Ohio St.3d 168, 2009-Ohio-721, 902 N.E.2d 979.

Accordingly, we sua sponte dismiss Rayford's petition for a writ of habeas corpus. Costs to Rayford. It is further ordered that the Clerk of the Eighth District Court of appeals serve notice of this judgment upon all parties as required by Civ.R. 58(B).

Petition dismissed.

MARY EILEEN KILBANE, PRESIDING JUDGE

ANN DYKE, J., and
LARRY A. JONES, J., CONCUR