

**COURT OF APPEALS OF OHIO**

**EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA**

|                        |   |            |
|------------------------|---|------------|
| STATE OF OHIO          | : |            |
| FRANK JACKSON, JR.,    | : |            |
|                        | : |            |
| Petitioner,            | : | No. 108974 |
|                        | : |            |
| v.                     | : |            |
|                        | : |            |
| CUYAHOGA COUNTY COMMON | : |            |
| PLEAS COURT,           | : |            |
|                        | : |            |
| Respondent.            | : |            |

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**JOURNAL ENTRY AND OPINION**

**JUDGMENT: PETITION DISMISSED**  
**DATED: September 18, 2019**

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Writ of Habeas Corpus  
Order No. 531802

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***Appearances:***

Saffold Law, L.L.C., and Sydney Strickland Saffold, *for petitioner.*

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and James E. Moss, Assistant Prosecuting Attorney, *for respondent.*

MICHELLE J. SHEEHAN, J.:

{¶ 1} On September 6, 2019, the petitioner, Frank Q. Jackson, commenced this habeas corpus petition against the respondent, the Cuyahoga County Court of Common Pleas, to obtain Jackson's release from unlawful imprisonment. He alleges that there was an intentional delay in seeking his arrest from the issuance of his indictment, so that there would be no arraignment for four days and he would be unlawfully imprisoned without bail for those days. For the following reasons, this court denies the petition sua sponte.

{¶ 2} Jackson's petition is fatally defective. R.C. 2725.04(D) requires a habeas corpus petitioner to include a copy of the commitment or cause of detention. Jackson attached no commitment papers. This is fatal to a habeas corpus petition and cannot be cured by an amended filing. *State ex rel. Jackson v. Sloan*, 150 Ohio St.3d 14, 2016-Ohio-5106, 78 N.E.3d 822.

{¶ 3} R.C. 2725.04 further requires the petition to be verified. In *Chari v. Vore*, 91 Ohio St.3d 323, 2001-Ohio-49, 744 N.E.2d 763, the Supreme Court of Ohio ruled: "Verification' means a 'formal declaration made in the presence of an authorized officer, such as a notary public, by which one swears to the truth of the statement in the document.' Garner, Black's Law Dictionary (7 Ed.1999) 1556 \* \* \*." The Supreme Court of Ohio then reversed the court of appeals' granting of the writ and awarding of relief and held that the cause should have been summarily dismissed because the petition was defective. Jackson's petition is not verified and not supported by an affidavit.

{¶ 4} Moreover, Jackson named the wrong respondent. Pursuant to R.C. 2725.04(B), the writ will lie against only the individual who is directly responsible for the keeping the petitioner in custody. For Jackson, that would be the county sheriff, not the county common pleas court. Again, this is sufficient reason to dismiss the petition. *Davis v. Wilson*, 100 Ohio St.3d 269, 2003-Ohio-5898, 798 N.E.2d 379, and *State ex rel. Bruggeman v. Auglaize Cty. Court of Common Pleas*, 87 Ohio St.3d 257, 719 N.E.2d 543 (1999).

{¶ 5} Finally, this case is moot. On September 9, 2019, the common pleas court arraigned Jackson in *State v. Jackson*, Cuyahoga C.P. No. CR-19643575-A and set bail at \$25,000 for charges of felonious assault, abduction, and two counts of failure to comply. A review of that case's docket shows that bail has been posted. *See State v. Hines*, 11th Dist. Lake No. 2018-L-095, 2019-Ohio-1298, citing *State ex rel. Grove v. Nadel*, 84 Ohio St.3d 252, 253, 703 N.E.2d 304 (1998) (the court of appeals properly took judicial notice of docket entries to determine that a procedendo action should be dismissed as moot).

{¶ 6} Accordingly, this court dismisses the petition for a writ of habeas corpus. Petitioner to pay costs. This court directs the clerk of courts to serve all parties notice of this judgment and its date of entry upon the journal as required by Civ.R. 58(B).

**{¶ 7} Petition dismissed.**

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**MICHELLE J. SHEEHAN, JUDGE**

**EILEEN T. GALLAGHER, P.J., and  
RAYMOND C. HEADEN, J., CONCUR**