

IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
TRUMBULL COUNTY, OHIO

JUAN RAMONE LOPEZ, a.k.a.	:	MEMORANDUM OPINION
EDUARDO BONILLA,	:	
	:	
Petitioner,	:	CASE NO. 2017-T-0015
	:	
- VS -	:	
	:	
WARDEN, TRUMBULL CORRECTIONAL	:	
INSTITUTION,	:	
	:	
Respondent.	:	

Original Action for Writ of Habeas Corpus.

Judgment: Petition dismissed.

Jeffrey M. Brandt, Robinson & Brandt, P.S.C., 629 Main Street, Suite B, Covington, KY 41011 (For Petitioner).

Mike DeWine, Ohio Attorney General, and *Stephanie L. Watson*, Assistant Attorney General, Ohio Attorney General's Office, 150 East Gay Street, 16th Floor, Columbus, OH 43215 (For Respondent).

TIMOTHY P. CANNON, J.

{¶1} This habeas corpus action is presently before this court for consideration of petitioner's motion to transfer the petition to the Twelfth Appellate District and to amend the petition to substitute the correct respondent. For the following reasons, the petition for writ of habeas corpus is dismissed.

{¶2} On February 13, 2017, petitioner, Juan Ramone Lopez, a.k.a. Eduardo Bonilla, filed a petition for writ of habeas corpus pursuant to R.C. 2725.01 and Article IV, Section 3(B)(1)(c) of the Ohio Constitution against respondent, Warden, Trumbull Correctional Institution. The warden is Charmaine Bracy. At the time of filing, petitioner was an inmate at the Trumbull Correctional Institution and sought habeas corpus relief based upon his contention that he was illegally tried as an adult. Petitioner maintains his real name is Juan Ramone Lopez, and when he was arrested on October 4, 1998, he was 19 days short of his eighteenth birthday. He claims that at the time of his arrest he had adopted the identity of a 21-year old adult named Eduardo Bonilla. Because he identified himself to officials as Bonilla, he never appeared before the juvenile court for bindover proceedings. Petitioner argues his incarceration is unlawful, as the sentencing court lacked jurisdiction over him because no bindover proceedings took place prior to his being sentenced in the Greene County Court of Common Pleas.

{¶3} In response to the petition, this court issued an alternative writ, ordering respondent to file an answer or a motion to dismiss. Respondent filed a motion to dismiss on March 27, 2017. Respondent asserted the petition should be dismissed because petitioner (1) had already unsuccessfully adjudicated the jurisdictional issues raised in his petition, availing himself of an adequate legal remedy and rendering his arguments barred by res judicata; (2) had invited any error by intentionally identifying himself to officials as Eduardo Bonilla at the time of his arrest so that he is equitably estopped from benefitting from the error; (3) failed to raise the issues in his petition until “some 18 years” after his conviction, requiring dismissal under the doctrine of laches; (4) failed to comply with the statutory requirements of R.C. 2725.04, because he did not

provide a copy of his commitment papers with his petition; and (5) is not entitled to immediate release from prison, because his maximum prison sentence of life plus 30 years has not expired. Petitioner filed a memorandum in opposition to the motion to dismiss on April 17, 2017, with his commitment papers attached.

{¶4} On June 28, 2017, petitioner filed a “Motion to Transfer Petition for Writ of Habeas Corpus to the Twelfth Appellate District.” Petitioner has been transferred to the Madison Correctional Institution, located within the jurisdiction of the Twelfth Appellate District. Petitioner requests that this court transfer his pending petition for writ of habeas corpus to the Twelfth Appellate District and allow him to amend the caption in his petition to name the Warden of the Madison Correctional Institution as respondent. Respondent has not filed a response.

{¶5} Pursuant to R.C. 2725.03, “a habeas corpus action can only be maintained in the county where the inmate is incarcerated. In applying this statute, this court has concluded that its basic requirements are jurisdictional in nature.” *Christian v. Gansheimer*, 11th Dist. Ashtabula No. 2007-A-0056, 2007-Ohio-6012, ¶5, citing R.C. 2725.03 and *Dewey v. State*, 11th Dist. Ashtabula No. 2006-A-0012, 2007-Ohio-471, ¶5. “R.C. 2725.03 expressly states that if the prison is not within the county where the court is situated, any order of that court is void.” *Id.*

{¶6} Although venue for petitioner’s petition was proper in Trumbull County when it was filed in February, he is now being held in Madison County. Madison County is within the territorial boundaries of the Twelfth District, and petitioner’s transfer from Trumbull County to Madison County divested this court of jurisdiction. See *Keyes v. Goodrich—Warden*, 11th Dist. Ashtabula No. 2012-A-0004, 2012-Ohio-3040, ¶4.

{¶7} Because this court does not have jurisdiction to entertain this petition, we lack the authority to transfer venue to the appropriate court or to allow petitioner to amend his petition. See *Greater Dayton Regional Transit Auth. v. State Emp. Relations Bd.*, 10th Dist. Franklin No. 14AP-876, 2015-Ohio-2049, ¶40; see also *Zollett v. Nittskoff*, 8th Dist. Cuyahoga No. 45336, 1983 WL 5958, *3 (Apr. 21, 1983); *Williams v. Assocs. In Female Health, Inc.*, 11th Dist. Trumbull No. 2001-T-0072, 2002-Ohio-4954, ¶15. In addition, transfer of venue would not resolve the deficiency in the petition, because it is acknowledged that the named respondent does not have custody of petitioner. If this matter is to proceed, a new petition must be filed in the proper venue naming the proper respondent.

{¶8} For the foregoing reasons, petitioner's habeas corpus petition is dismissed.

THOMAS R. WRIGHT, J.,

COLLEEN MARY O'TOOLE, J.,

concur.