

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO,	:	JUDGES:
Ex. Rel. PETER A. RACIC	:	Sheila G. Farmer, P.J.
	:	W. Scott Gwin, J.
	:	Julie A. Edwards, J.
Petitioner	:	
	:	Case No. 2009 CA 00285
-vs-	:	
	:	
	:	<u>OPINION</u>
STARK COUNTY SHERIFF,	:	
Respondent	:	

CHARACTER OF PROCEEDING:	Criminal Appeal from Stark County Court of Common Pleas Case No. 2009 CR 1078
JUDGMENT:	Dismissed
DATE OF JUDGMENT ENTRY:	December 7, 2009
APPEARANCES:	
For Petitioner	For Respondent
ANTHONY KOUKOUTAS 111 Second Street, N.W., Ste. 302 Canton, Ohio 44702	No Appearance

Gwin, J.

{¶1} Petitioner, Peter A. Racic, has filed a Petition for Writ of Habeas Corpus. He states his bond was revoked because he requested a trial.

{¶2} Petitioner has not attached a copy of the relevant commitment papers to his Petition in compliance with R.C. 2725.04(D). The Supreme Court has held failure to comply with this requirement is a fatal defect which cannot be cured, “[C]ommitment papers are necessary for a complete understanding of the petition. Without them, the petition is fatally defective. When a petition is presented to a court that does not comply with R.C. 2725.04(D), there is no showing of how the commitment was procured and there is nothing before the court on which to make a determined judgment except, of course, the bare allegations of petitioner's application.” *Bloss v. Rogers*, 65 Ohio St.3d 145, 602 N.E.2d 602. See also, *Boyd v. Money*, 82 Ohio St.3d 388, wherein the Supreme Court held, “Habeas corpus petitioner's failure to attach pertinent commitment papers to his petition rendered petition fatally defective, and petitioner's subsequent attachment of commitment papers to his post-judgment motion did not cure the defect.” R.C. § 2725.04(D).

{¶3} We further note a “Court of Appeals [is] required to dismiss [a] petition for habeas corpus sua sponte, where defendant failed to verify the petition for habeas corpus, support his complaint with an affidavit specifying the details of the claim, attach a copy of commitment or cause of detention to petition, name the correct respondent, or attach an affidavit describing each civil action or appeal filed by the relator within previous five years in any state or federal court. R.C. 2725.04(B, D), 2969.25.” *Melton v. State* 2002 WL 31040689 (Ohio App. 8 Dist.).

{¶4} The Petition filed does not contain an affidavit detailing Petitioner's prior civil actions. Petitioner's failure to include these items requires dismissal of this case.

{¶5} For these reasons, the instant Petition is dismissed.

By: Gwin, J.

Farmer, P.J. and

Edwards, J. concur

JUDGES

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