

COURT OF APPEALS
RICHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

GARY D. WALKER	:	JUDGES:
	:	Hon. Julie A. Edwards, P.J.
	:	Hon. W. Scott Gwin, J.
Petitioner	:	Hon. Patricia A. Delaney, J.
	:	
-vs-	:	
	:	Case No. 2009-CA-145
MARGARET BRADSHAW, WARDEN	:	
	:	
Respondent	:	<u>OPINION</u>

CHARACTER OF PROCEEDING: Writ of Habeas Corpus

JUDGMENT: Denied

DATE OF JUDGMENT ENTRY: March 1, 2010

APPEARANCES:

For Petitioner For Respondent

Gary D. Walker Pro Se No Appearance
Richland Correctional Inst.
Box 8107
Mansfield, OH 44901

Gwin, J.

{¶1} Petitioner, Gary Walker, has filed a complaint requesting the issuance of a writ of habeas corpus ordering his immediate release from confinement based upon the allegation the sentencing entries issued by the trial courts in his cases are void.

{¶2} The sole allegation raised in the petition is the entries issued by the trial courts are void because they fail to properly impose mandatory post-release controls.

{¶3} According to the Petition, Walker is incarcerated pursuant to three cases: Richland County Case Number 2009CR0052D, Cuyahoga County Case Number CR-08-507670-A, and Cuyahoga County Case Number CR-07-504594-A. The Richland County entry contains the following term, “This sentence includes 3 years mandatory post release control (PRC).” In Cuyahoga County Case Number CR-08-507670-A, the entry states, “Post Release Control is part of this prison sentence for 3 years for the above felony(s) under R.C. 2967.28.” Likewise, the entry in Cuyahoga County Case Number CR-07-504594-A states, “Post Release Control is part of this prison sentence for 3 years for the above felony(s) under R.C. 2967.28.”

{¶4} The Supreme Court has discussed the inapplicability of extraordinary writs to challenge a sentence based upon the trial court’s failure to properly impose post release control where the trial court did at least include some post release control notification in the sentencing entry.

{¶5} The Court stated in *Patterson v. Ohio Adult Parole Auth.*, 120 Ohio St.3d 311, 312, “ [A defendant] [has] an adequate remedy by way of direct appeal from his sentence to raise his claim that he did not receive proper notification about post release control at his sentencing hearing. See, e.g., *Watkins v. Collins*, 111 Ohio St.3d 425,

2006-Ohio-5082, 857 N.E.2d 78, (“The remedy for improper notification about post release control at the sentencing hearing is resentencing-not release from prison”) and (“habeas corpus is not available to contest any error in the sentencing entries, and petitioners have or had an adequate remedy by way of appeal to challenge the imposition of post release control”). We have never held that these claims can be raised by extraordinary writ when the sentencing entry includes post release control, however inartfully it might be phrased. *Id.*; cf. *Hernandez v. Kelly*, 108 Ohio St.3d 395, 2006-Ohio-126, 844 N.E.2d 301 (petitioner entitled to writ of habeas corpus because sentencing entry did not include post release control, and petitioner had completed journalized sentence); *State v. Bezak*, 114 Ohio St.3d 94, 2007-Ohio-3250, 868 N.E.2d 961 (claim of failure to properly notify offender of post release control at sentencing hearing was raised in direct appeal from sentence imposing post release control).”

{¶6} Because Relator’s sentencing entry did contain an order imposing post release control, Relator has or had an adequate remedy at law by way of direct appeal to challenge any defect if one exists. Release from prison and the issuance of a writ of habeas corpus is not warranted for improper notification of post release control.

{¶7} For these reasons, the Petition for Writ of Habeas Corpus is denied.

{¶8} WRIT DENIED.

{¶9} COSTS TO PETITIONER.

{¶10} IT IS SO ORDERED.

HON. W. SCOTT GWIN

HON. JULIE A. EDWARDS

HON. PATRICIA A. DELANEY

[Cite as *Walker v. Bradshaw*, 2010-Ohio-764.]

IN THE COURT OF APPEALS FOR RICHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

GARY D. WALKER	:	
	:	
Petitioner	:	
	:	
-vs-	:	JUDGMENT ENTRY
	:	
MARGARET BRADSHAW, WARDEN	:	
	:	
Respondent	:	CASE NO. 2009-CA-145

For the reasons stated in our accompanying Memorandum-Opinion, the Petition for Writ of Habeas Corpus is denied.

HON. W. SCOTT GWIN

HON. JULIE A. EDWARDS

HON. PATRICIA A. DELANEY