

[Cite as *State ex rel. Baker v. Court of Common Pleas*, 2016-Ohio-7769.]

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO, EX REL.	:	JUDGES:
MICHAEL L. BAKER	:	Hon. Sheila G. Farmer, P.J.
	:	Hon. W. Scott Gwin, J.
Petitioner	:	Hon. Patricia A. Delaney, J.
	:	
-vs-	:	
	:	
COURT OF COMMON PLEAS/ ADULT PAROLE AUTHORITY	:	CASE NO. 2016CA00065
	:	
Respondent	:	<u>OPINION</u>

CHARACTER OF PROCEEDING: Writ of Habeas Corpus

JUDGMENT: Dismissed

DATE OF JUDGMENT: November 14, 2016

APPEARANCES:

For Petitioner

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For Respondent

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Farmer, P.J.

{¶1} Petitioner, Michael L. Baker, has filed a petition for writ of habeas corpus. In paragraph four of the petition, he avers he is being unlawfully detained in the Belmont Correctional Institution.

{¶2} A review of the complaint reveals Petitioner has failed to attach the necessary commitment papers in compliance with R.C. 2745.04(D). The only commitment paper attached to the petition is a sentencing entry out of Canton Municipal Court Case Number 2015CRB05765. This entry does not sentence Petitioner to prison. Therefore, there are additional commitment papers which have not been attached.

{¶3} 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. 2745.04(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.

{¶4} 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. 2745.04(D).

{¶5} We find the failure to include all pertinent commitment papers has made a

complete understanding of the Petition impossible. For this reason, the petition is dismissed.

By Farmer, P.J.

Gwin, J. and

Delaney, J. concur.

SGF/as 1103