

COURT OF APPEALS
ASHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

BRIAN BATES
Petitioner

-vs-

Respondent

JUDGES:
Hon. William B. Hoffman, P. J.
Hon. John W. Wise, J.
Hon. Earle E. Wise, Jr., J.

Case No. 20 COA 027

OPINION

CHARACTER OF PROCEEDING: Writ of Habeas Corpus

JUDGMENT: Dismissed

DATE OF JUDGMENT ENTRY: October 22, 2020

APPEARANCES:

For Petitioner

For Respondent

BRIAN BATES
ASHLAND COUNTY SHERIFF'S
DEPARTMENT
1205 East Main Street
Ashland, Ohio 44805

Wise, John, J.

{¶1} On October 13, 2020, Petitioner, Brian Bates, filed a Petition for Writ of Habeas Corpus. He did not identify a respondent in his petition. Mr. Bates’s argument is not easily followed, but he makes the following allegations in support of his writ: (1) “You are making injurious ‘presumptions’ which prejudice my Constitutional rights. I am not a vessel in commerce[.]” (2) “I am not a citizen, surety for subject of, an officer of, and do not owe allegiance, fealty, bond undertaking, obligation, duty tax, impost, or tribute. Matters are not being handled with efficiency, or are not being taken care of at all, usurpation of funds is occurring, there is rampant fraud and deceit[.]” (3) “Deputy was noticed at initial stop & crimes against my flesh & blood have been continual since.” (4) “ ‘Where rights secured by the constitution are involved, there can be no rule making or legislation would abrogate them[.]’ ”]

{¶2} We find Mr. Bates cannot maintain an action for habeas corpus and his petition is sua sponte dismissed. We are permitted to dismiss a habeas corpus petition sua sponte if the petition does not contain a facially valid claim. *State ex rel. Crigger v. Ohio Adult Parole Auth.*, 82 Ohio St.3d 270, 271, 695 N.E.2d 254 (1988).

{¶3} Here, Mr. Bates failed to attach his commitment papers. The Court reviewed the Ohio Department of Rehabilitation and Correction’s website (<https://appgateway.drc.ohio.gov/OffenderSearch/Search/Details/A748953>) and confirmed Mr. Bates was released from the Southeastern Correctional Institution on July 2, 2020. It appears Mr. Bates may be incarcerated in the Ashland County Jail. However, without a copy of any commitment papers, and based on the information from the above website, we must assume Mr. Bates is not currently incarcerated.

{¶4} R.C. 2725.04(D) requires a copy of the commitment or cause of detention be attached to the petition for a writ of habeas corpus. Without the commitment papers, the writ of habeas corpus is fatally defective. *Brown v. Rogers*, 72 Ohio St.3d 339, 341, 650 N.E.2d 422 (1995). A court may sua sponte dismiss a petition for habeas corpus that fails to comply with R.C. 2725.04(D). See *State ex rel. Wynn v. McFaul*, 81 Ohio St.3d 193, 194, 690 N.E.2d 7 (1998) (Ohio Supreme Court affirmed court of appeals' sua sponte dismissal of habeas corpus petition for failure to comply with R.C. 2725.04(D).)

{¶5} We also note Mr. Bates failed to identify a proper respondent. This also serves as an independent basis to sua sponte dismiss his writ. See *State ex rel. Sherrills v. State*, 91 Ohio St.3d 133, 742 N.E.2d 651 (Ohio Supreme Court affirmed sua sponte dismissal of a petition for habeas corpus because petitioner did not name proper respondents.)

{¶6} Therefore, we dismiss Mr. Bates's writ of habeas corpus. It appears he may no longer be incarcerated and he submitted no commitment papers indicating otherwise. Further, Mr. Bates failed to identify a proper respondent.

{¶7} For the foregoing reasons, we sua sponte dismiss Mr. Bates's Petition for Writ of Habeas Corpus. The clerk of courts is hereby directed to serve upon Mr. Bates and the Ashland County Prosecutor notice of this judgment and its date of entry upon the journal. See Civ.R. 58(B).

By: Wise, John, J.

Hoffman, P. J., and

Wise, Earle, J., concur.

JWW/AC 1014