

[Cite as *In re Hatcher*, 2002-Ohio-4469.]

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
WILLIAMS COUNTY

In the matter of the
application of Angela K.
Hatcher, n/k/a Angela K.
Walker,

Court of Appeals No. WM-02-015

Petitioner

DECISION AND JUDGMENT ENTRY

v.

Decided: August 22, 2002

Dale W. Hatcher,

Respondent

* * * * *

Eric A. Mertz and Jennifer N. Brown, for petitioner.

* * * * *

SHERCK, J.

{¶1} This matter is before the court on the petition of Angela K. Walker, f/k/a Angela K. Hatcher, for a writ of habeas corpus.

{¶2} Petitioner states that the Williams County Court of Common Pleas issued an ex parte order awarding temporary custody of petitioner's two children to respondent, petitioner's ex-husband Dale W. Hatcher, pending an October 7, 2002 hearing.

{¶3} The use of habeas corpus in child custody cases is the exception and may not ordinarily be used as a substitute for appeal. *McNeal v. Children's Serv. Board* (1992), 64 Ohio St.3d 208, 210. Moreover, R.C. 2725.05 directs that the writ not be allowed

when custody is, " *** by virtue of the *** order of a court of record [that has] jurisdiction to issue *** the order ***."

{¶4} Petitioner has an adequate remedy at law, through appeal, and the order to which she objects is from a court of record with proper jurisdiction. Accordingly, as a matter of law, her petition is insufficient on its face and is, hereby, dismissed at petitioner's costs.

WRIT DISMISSED.

Peter M. Handwork, J.

JUDGE

Melvin L. Resnick, J.

JUDGE

James R. Sherck, J.
CONCUR.

JUDGE