

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

Michael G. Newcomer

Court of Appeals No. L-10-1272

Petitioner

v.

Jim Dennis, Executive Director,
Corrections Center of Northwest Ohio and
The Honorable Judge Donald Ramsey

DECISION AND JUDGMENT

Respondents

Decided: October 14, 2010

* * * * *

Henry B. Herschel and Heather J. Fournier, for petitioner.

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SINGER, J.

{¶ 1} Petitioner, Michael G. Newcomer, has filed a petition for a writ in habeas corpus, against respondents, Jim Dennis, Executive Director Corrections Center of Northwest Ohio and the Honorable Judge Donald Ramsey. Petitioner has filed the

petition related to his incarceration for an order of contempt for non-payment of child support issued in the Lucas County Court of Common Pleas, Domestic Relations Division. Petitioner was ordered to serve 30 days incarceration.

{¶ 2} A writ of habeas corpus is an extraordinary writ which will lie only when an individual is without an adequate remedy at law. *Burch v. Perini* (1981), 66 Ohio St.2d 174, 175. R.C. 2725.01, which establishes which persons are entitled to a writ of habeas corpus, states the following:

{¶ 3} "Whoever is unlawfully restrained of his liberty, or entitled to the custody of another, of which custody such person is unlawfully deprived, may prosecute a writ of habeas corpus, to inquire into the cause of such imprisonment, restraint, or deprivation."

{¶ 4} In this case, petitioner alleges that the trial court erroneously found that he had the ability to pay the child support and other obligations incident to his divorce. Petitioner claims that the trial court further "discriminated against" him by subjecting him "to imprisonment solely because of his indigency."

{¶ 5} Upon our review of the petition, we conclude that petitioner has not alleged that the trial court acted without authority or that there is no lawful order. Rather, petitioner is arguing that the findings of the trial court were not supported by the evidence presented at the contempt hearing. Therefore, petitioner has an adequate remedy at law in the form of a direct appeal and a motion for stay of execution of the sentence. See *Bly v. Smith* (1916), 94 Ohio St. 110 (where court's jurisdiction was proper, action in habeas

corpus will not lie to collaterally attack a domestic relations court order to pay support).

Thus, petitioner has not established his right to the requested relief in habeas corpus.

{¶ 6} Accordingly, petitioner's request for a writ of habeas corpus is not well-taken and is denied. Petition dismissed at petitioner's costs.

{¶ 7} The clerk is ordered to serve all parties, within three days, a copy of this decision in a manner prescribed by Civ.R. 5(B).

WRIT DENIED.

Mark L. Pietrykowski, J.

JUDGE

Arlene Singer, J.

JUDGE

Thomas J. Osowik, P.J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
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