

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

William Dixon

Court of Appeals No. L-19-1066

Petitioner

v.

Warden Bowerman

DECISION AND JUDGMENT

Respondent

Decided: April 19, 2019

* * * * *

William Dixon, pro se.

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SINGER, J.

{¶ 1} This matter is before the court upon the pro se “motion” of William Dixon for a writ of habeas corpus against respondent, Sean Bowerman, warden of the Toledo Correctional Institution. Dixon also filed motions for expert assistance and to proceed in forma pauperis. Dixon is imprisoned pursuant to a 2006 conviction and sentence, which imposed an aggregate term of 21 years in prison.

{¶ 2} Petitioner filed a similar application for a writ of habeas corpus on March 6, 2018, against a prior warden of the Toledo Correctional Institution, John Coleman, asserting claims relating to the length of his sentence, appointment of trial counsel, trial

judge bias, discovery errors and misconduct by the prosecution. We denied the writ on the grounds that the claims did not relate to the jurisdiction of the sentencing court, the nonjurisdictional claims did not present issues for which there was no adequate remedy at law, and Dixon failed to file an affidavit pursuant to R.C. 2969.25 listing all the actions he had filed in the previous five years. *State ex rel. Dixon v. Coleman, Warden*, 6th Dist. Lucas No. L-18-1042 (Mar. 13, 2019). The Ohio Supreme Court affirmed on appeal that the petition was properly dismissed for failure to file the R.C. 2969.25 affidavit. *State ex rel. Dixon v. Bowerman*, Slip Opinion No. 2018-0621, 2019-Ohio-716, ¶ 5.

{¶ 3} A writ of habeas corpus is an extraordinary remedy which is available only “where there is an unlawful restraint of a person’s liberty and there is no adequate remedy in the ordinary course of law.” *Johnson v. Timmerman-Cooper*, 93 Ohio St.3d 614, 616, 757 N.E.2d 1153 (2001), citing *Pegan v. Crawmer*, 76 Ohio St.3d 97, 99, 666 N.E.2d 1091 (1996). *Accord* R.C. 2725.01. The writ is not intended to be a substitute for direct appeal, postconviction relief, or other legal remedies, *Daniel v. State*, 98 Ohio St.3d 467, 2003-Ohio-1916, 786 N.E.2d 891, ¶ 8, and must either challenge the jurisdiction of the sentencing court, R.C. 2725.05, or raise nonjurisdictional errors for which there is no adequate remedy at law. *Pence v. Bunting*, 143 Ohio St.3d 532, 2015-Ohio-2026, 40 N.E.3d 1058, ¶ 9. A petitioner “may not use habeas corpus to obtain successive appellate reviews of the same issue.” *Wells v. Hudson*, 113 Ohio St.3d 308, 2007-Ohio-1955, 865 N.E.2d 46, ¶ 7.

{¶ 4} We have reviewed relator’s petition and attachments. First, we cannot find where the petition was verified under oath as required by R.C. 2725.04. The failure to verify the petition is grounds for immediate dismissal of the petition. *Chari v. Vore*, 91 Ohio St.3d 323, 327, 744 N.E.2d 763 (2001).

{¶ 5} Second, Dixon does not state the allegations in numbered paragraphs as required by Civ.R. 10(B). However, failure to comply with this requirement does not permit dismissal of the petition. *Wright v. Ghee*, 74 Ohio St.3d 465, 466, 659 N.E.2d 1261 (1996).

{¶ 6} Third, Dixon’s petition begins with three specific grounds for relief (ineffective assistance; prosecutorial misconduct; and abuse of discretion by all judges), and he also asserts he was unlawfully restrained because of his “actual innocence.” Furthermore, he asserts the following errors occurred during his trial and at sentencing which he alleges resulted in his unlawful conviction and sentence: instances of prosecutorial misconduct during trial; trial judge bias; disparity in sentencing; a failure to merge his convictions for allied offenses; his inability to select appointed counsel of choice; ineffective assistance of appointed counsel at trial, on appeal, and in prior habeas corpus actions; and a denial of due process and equal protection in the resolution of his postconviction relief petitions, motions, and original actions because of repeated denials or dismissals of these actions on res judicata or procedural grounds. We find that all of these claims could have been or were raised at trial, after trial by motion or postconviction relief petitions, or in an appeal of the individual judgments.

{¶ 7} Therefore, we find Dixon does not allege that he is being unlawfully restrained because the trial court lacked jurisdiction to convict and sentence him or that his conviction and sentence were the result of some unlawful action for which there was no adequate remedy at law. A petition which fails to state a claim for habeas corpus relief should be dismissed. *Chari v. Vore*, 91 Ohio St.3d 323, 327, 744 N.E.2d 763 (2001).

{¶ 8} Based on the face of the petition, we find Dixon has not stated a claim entitling him to habeas corpus relief. Therefore, the petition is ordered dismissed. Dixon's motions for expert assistance and to proceed in forma pauperis are rendered moot and are denied. The costs of this action are assessed to petitioner.

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

Writ denied.

Arlene Singer, J.

JUDGE

Thomas J. Osowik, J.

JUDGE

Gene A. Zmuda, J.
CONCUR.

JUDGE

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