

THOMAS, APPELLANT, v. HUFFMAN, WARDEN, APPELLEE.

[Cite as *Thomas v. Huffman* (1998), \_\_\_ Ohio St.3d \_\_\_\_.]

*Mandamus to compel relator's immediate release from prison — Court of appeals does not err in dismissing complaint, when.*

(No. 98-1465 — Submitted December 2, 1998 — Decided December 30, 1998.)

APPEAL from the Court of Appeals for Hamilton County, No. C-980321.

In 1991, appellant, John T. Thomas III, was convicted of attempted rape and sentenced to a prison term of three to fifteen years. In 1998, Thomas filed a petition in the Court of Appeals for Hamilton County for a writ of habeas corpus to compel his immediate release from prison. Thomas claimed that his conviction and sentence were erroneous because of double jeopardy, ineffective assistance of counsel, improper argument by the prosecuting attorney, and a violation of his right to equal protection.

The court of appeals granted the motion of appellee, Thomas's prison warden, and dismissed the petition.

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*James T. Thomas III, pro se.*

*Joseph T. Deters*, Hamilton County Prosecuting Attorney, and *Philip R. Cummings*, Assistant Prosecuting Attorney, for appellee.

***Per Curiam.*** Thomas asserts that the court of appeals erred in dismissing his habeas corpus petition.

Thomas's contention lacks merit because his claims are not cognizable in habeas corpus. See, e.g., *Gaskins v. Shiplevy* (1995), 74 Ohio St.3d 149, 150, 656 N.E.2d 1282, 1283 (double jeopardy); *Cornell v. Schotten* (1994), 69 Ohio St.3d 466, 467, 633 N.E.2d 1111, 1112 (ineffective assistance of counsel); *In re Copley* (1972), 29 Ohio St.2d 35, 58 O.O.2d 98, 278 N.E.2d 358 (equal protection);

*Mattox v. Sacks* (1961), 172 Ohio St. 385, 16 O.O.2d 243, 176 N.E.2d 221 (improper remarks made by prosecuting attorney). Thomas had adequate legal remedies by an appeal or postconviction relief to raise his claimed errors. See *State ex rel. Massie v. Rogers* (1997), 77 Ohio St.3d 449, 450, 674 N.E.2d 1383, 1383.

Based on the foregoing, the court of appeals properly dismissed the habeas corpus petition. Therefore, we affirm the judgment of the court of appeals.

*Judgment affirmed.*

MOYER, C.J., DOUGLAS, RESNICK, F.E. SWEENEY, PFEIFER, COOK and LUNDBERG STRATTON, JJ., concur.