

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *Roberts v. Knab*, Slip Opinion No. 2012-Ohio-56.]

NOTICE

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SLIP OPINION NO. 2012-OHIO-56

ROBERTS, APPELLANT, v. KNAB, WARDEN, APPELLEE.

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Habeas corpus—Sentencing error not cognizable in habeas corpus—Claim already raised in direct appeal—Res judicata bars second raising of claim—Judgment dismissing petition affirmed.

(No. 2011-1364—Submitted January 3, 2012—Decided January 12, 2012.)

APPEAL from the Court of Appeals for Ross County, No. 11CA3235.

Per Curiam.

{¶ 1} We affirm the judgment of the court of appeals dismissing the petition of appellant, Michael Roberts, for a writ of habeas corpus. Roberts's claim of sentencing error is not cognizable in habeas corpus, and he had an adequate remedy in the ordinary course of law to raise the issue. *Turner v. Brunsman*, 123 Ohio St.3d 445, 2009-Ohio-5588, 917 N.E.2d 269. Roberts has already unsuccessfully raised his claim that the trial court erred in sentencing him without ordering a presentence-investigation report in a motion to vacate his

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sentence and in an appeal from the court's denial of his motion. See *State v. Roberts*, Franklin App. No. 10AP-223, 2010-Ohio-4324. Res judicata bars him from using habeas corpus to obtain a successive appellate review. *Shie v. Smith*, 123 Ohio St.3d 89, 2009-Ohio-4079, 914 N.E.2d 369, ¶ 2. We further deny Roberts's motions for correction or modification of the record and to take judicial notice.

Judgment affirmed.

O'CONNOR, C.J., and PFEIFER, LUNDBERG STRATTON, O'DONNELL, LANZINGER, CUPP, and MCGEE BROWN, JJ., concur.

Michael Roberts, pro se.

Michael DeWine, Attorney General, and Gene D. Park, Assistant Attorney General, for appellee.
