

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Harsh v. Sheets*, Slip Opinion No. 2012-Ohio-2368.]

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SLIP OPINION NO. 2012-OHIO-2368

THE STATE EX REL. HARSH, APPELLANT, v. SHEETS, WARDEN, APPELLEE.

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Court of appeals' judgment dismissing petition for writ of habeas corpus affirmed.

(No. 2012-0093—Submitted May 23, 2012—Decided May 31, 2012.)

APPEAL from the Court of Appeals for Butler County, No. CA2011-10-203.

Per Curiam.

{¶ 1} We affirm the judgment of the court of appeals dismissing the petition of appellant, Robert Harsh, for a writ of habeas corpus. Harsh previously unsuccessfully raised many of his same claims in his direct appeal, *State v. Harsh*, Butler App. No. CA2007-03-083, so res judicata bars him from using habeas corpus to obtain a successive appellate review of the same claims. *See Roberts v. Knab*, 131 Ohio St.3d 60, 2012-Ohio-56, 960 N.E.2d 457, ¶ 1.

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{¶ 2} Moreover, because Harsh either raised or could have raised his claims in three previous state habeas corpus cases, res judicata also bars him from filing a successive habeas corpus petition. *Nickelson v. Knab*, 131 Ohio St.3d 199, 2012-Ohio-579, 963 N.E.2d 154, ¶ 1. Like the court of appeals in this case, we similarly dismissed a successive habeas corpus petition filed by Harsh in 2011. *Harsh v. Knab*, 128 Ohio St.3d 1498, 2011-Ohio-2420, 947 N.E.2d 681.

{¶ 3} Finally, Harsh’s claims are not cognizable in habeas corpus, and he had an adequate remedy by way of appeal to raise his claims. *See Smith v. Smith*, 123 Ohio St.3d 145, 2009-Ohio-4691, 914 N.E.2d 1036, ¶ 1 (claim that jury-verdict forms did not list essential elements of criminal offense); *Haynes v. Voorhies*, 110 Ohio St.3d 243, 2006-Ohio-4355, 852 N.E.2d 1198, ¶ 5 (claim challenging validity of amendment to an indictment); *State ex rel. Austin v. Knab*, 127 Ohio St.3d 118, 2010-Ohio-4982, 936 N.E.2d 958, ¶ 1 (claim of nonjurisdictional sentencing errors); *Webber v. Kelly*, 120 Ohio St.3d 440, 2008-Ohio-6695, 900 N.E.2d 175, ¶ 8 (claim challenging sufficiency of the evidence); *Keith v. Bobby*, 117 Ohio St.3d 470, 2008-Ohio-1443, 884 N.E.2d 1067, ¶ 15 (claims of fraud upon the court and prosecutorial misconduct).

Judgment affirmed.

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

Robert Harsh, pro se.
