IN THE COURT OF APPEALS

TWELFTH APPELLATE DISTRICT OF OHIO

WARREN COUNTY

JOHN L. WRIGHT,	:	
Petitioner-Appellant,	:	CASE NO. CA98-09-126
- vs -	:	<u>JUDGMENT ENTRY</u>
		(Accelerated Calendar)
HARRY K. RUSSELL, Warden,	:	10/2/2001
Respondent-Appellee.	:	

This cause is an accelerated appeal from the Warren County Court of Common Pleas in which petitioner-appellant, John L. Wright, appeals the denial of his petition for a writ of habeas corpus.

Appellant, an inmate in the Ohio correctional system, filed a habeas action against appellee, the warden of the institution in which he was confined. Appellee moved to dismiss and the lower court granted the motion upon finding that appellant did not include an affidavit required by R.C. 2969.-25 listing all civil actions or appeals he had filed within the past five years.

Appellant does not even address the lower court's basis

for granting the motion to dismiss, but simply argues in his brief that the lower court should not have dismissed the petition because appellant was not provided a transcript of proceedings for the direct appeal of his convictions.[1]

A review of the habeas petition and the record of the lower court proceedings clearly shows that appellant did not file the affidavit required by R.C. 2969.25. The lower court was therefore correct in dismissing appellant's petition, and the sole assignment of error is overruled and the judgment affirmed on the basis of Smith v. Walker (1998), 83 Ohio St.3d 431; and State ex rel. Zanders v. Ohio Parole Bd. (1998), 82 Ohio St.3d 421. See, also, State ex rel. Washington v. Ohio Adult Parole Auth. (1999), 87 Ohio St.3d 258.

Pursuant to App.R. 11.1(E), this entry shall not be relied upon as authority and will not be published in any form. A certified copy of this judgment entry shall constitute the mandate pursuant to App.R. 27.

Costs to be taxed in compliance with App.R. 24.

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William W. Young, Presiding Judge

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Anthony Valen, Judge

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1. Appellee has not filed a brief in this case.

Stephen W. Powell, Judge