

KELLEY, APPELLANT, v. LANE, WARDEN, APPELLEE.

[Cite as *Kelley v. Lane*, 103 Ohio St.3d 432, 2004-Ohio-5582.]

Habeas corpus — Motion for relief from judgment cannot substitute for timely appeal. — Court of appeals’ judgment affirmed.

(No. 2004-0976 — Submitted September 15, 2004 — Decided November 3, 2004.)

APPEAL from the Court of Appeals for Richland County, No. 04CA12.

Per Curiam.

{¶1} In February 2004, appellant, Shawn P. Kelley, filed a petition in the Court of Appeals for Richland County for a writ of habeas corpus to compel appellee, his prison warden,¹ to release him from confinement. On February 25, the court of appeals dismissed the petition.

{¶2} On March 11, 2004, Kelley moved for relief from the February 25, 2004 judgment based on Civ.R. 60 and the court’s inherent authority. He asserted that the court of appeals had erred in denying his habeas corpus petition. On May 17, 2004, the court of appeals denied Kelley’s motion.

{¶3} We affirm the judgment of the court of appeals. A motion for relief from judgment cannot be used as a substitute for a timely appeal. *State ex rel. Howard v. Doneghy*, 102 Ohio St.3d 355, 2004-Ohio-3207, 810 N.E.2d 958, ¶ 8. In fact, Kelley appealed from the same judgment from which he now seeks relief. *Kelley v. Wilson*, 103 Ohio St.3d 201, 2004-Ohio-4883, 814 N.E.2d 1222. In that appeal, we rejected the claims that Kelley raises here.

Judgment affirmed.

1. We grant Kelley’s unopposed motion to name his current prison warden, Gordon Lane, as appellee.

SUPREME COURT OF OHIO

MOYER, C.J., RESNICK, F.E. SWEENEY, PFEIFER, LUNDBERG STRATTON,
O'CONNOR and O'DONNELL, JJ., concur.

Shawn P. Kelley, pro se.

Jim Petro, Attorney General, and J. Joseph Bodine Jr., Assistant Attorney
General, for appellee.
