

COURT OF APPEALS  
RICHLAND COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

DAVID A. WOLF	:	JUDGES:
	:	
Petitioner	:	Hon. W. Scott Gwin, P.J.
-vs-	:	Hon. Julie A. Edwards, J.
	:	Hon. Patricia A. Delaney, J.
	:	
STUART HUDSON, WARDEN	:	
	:	CASE NO. 08-CA-71
Respondent	:	
	:	<u>OPINION</u>

CHARACTER OF PROCEEDING:                      Petition for Writ of Habeas Corpus

JUDGMENT:    WRIT DENIED

DATE OF JUDGMENT ENTRY:                      November 5, 2008

APPEARANCES:

For Petitioner – pro se:

DAVID A. WOLF - #A-234-276  
Mansfield Correctional Institution  
1150 North main Street  
P.O. Box 788  
Mansfeiled, OH 44901-0788

Gwin, P.J.,

{¶1} Petitioner has filed a Complaint for “Habeas Corpus Relief” seeking release from prison based upon the allegation that the parole board has failed to afford him a hearing.

{¶2} A “Court of Appeals [is] required to dismiss [a] petition for habeas corpus sua sponte, where defendant failed to verify the petition for habeas corpus, support his complaint with an affidavit specifying the details of the claim, attach a copy of commitment or cause of detention to petition, name the correct respondent, or attach an affidavit describing each civil action or appeal filed by the relator within previous five years in any state or federal court. R.C. 2725.04(B, D), 2969.25.” *Melton v. State*, 2002 WL 31040689 (Ohio App. 8 Dist.).

{¶3} The Petition filed does not contain an affidavit of verification. Further, the Petition fails to include an affidavit detailing Petitioner’s prior civil actions. Petitioner’s failure to include these items requires dismissal of this case.

{¶4} Further, even if we were to address the merits, Petitioner’s complaint suggests he is entitled to release because the parole board failed to give him a parole hearing. As we have held before, the denial of parole or the failure to afford a prisoner a parole hearing does not deny a prisoner his/her “liberty”, as parole in Ohio is discretionary. *State ex rel. Ferguson v. Ohio Adult Parole Authority* (1989), 45 Ohio St.3d 355, 544 N.E.2d 674. See also, *State ex rel. Hattie v. Goldhardt*, 69 Ohio St.3d 123, 630 N.E.2d 696, 1994-Ohio-81, and *Jago v. Van Curen* (1981) 454 U.S. 14, 102 S.Ct. 31, 70 L.Ed.2d 13. *White v. Croft* 2005 WL 1163263, 3 (Ohio App. 5 Dist.).

{¶5} For these reasons, the Petition for Writ of Habeas Corpus is dismissed and denied.

{¶6} WRIT DENIED.

{¶7} CASE DISMISSED.

{¶8} COSTS TO PETITIONER.

By: Gwin, P.J.  
Edwards, J. and  
Delaney, J. concur

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HON. W. SCOTT GWIN

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HON. JULIE A. EDWARDS

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HON. PATRICIA A. DELANEY

