

COURT OF APPEALS
RICHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE EX REL. RICKY JOHNSON, AKA RODNEY KNUCKLES	:	JUDGES: Hon. W. Scott Gwin, P.J. Hon. William B. Hoffman, J. Hon. Sheila G. Farmer, J.
	:	
Petitioner	:	
	:	
-vs-	:	Case No. 13CA27
	:	
TERRY TIBBALS, WARDEN OF THE MANSFIELD CORRECTIONAL INSTITUTION	:	<u>OPINION</u>
	:	
Respondent	:	

CHARACTER OF PROCEEDING: Writ of Habeas Corpus

JUDGMENT: Dismissed

DATE OF JUDGMENT ENTRY: August 15, 2013

APPEARANCES:

For Petitioner

For Respondent

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Gwin, P.J.

{¶1} Petitioner, Ricky Johnson, has filed a petition for Writ of Habeas Corpus alleging unlawful detention based upon his contention that “the trial court erred when it conducted a bench trial, since the record contains no witten (sic) waiver of his legal constitutional rights to a jury trial pursuant to R.C. 2945-05.” Respondent has filed a motion to dismiss based in part upon Petitioner’s failure to comply with the procedural requirements for a petition for writ of habeas corpus.

{¶2} We find it unnecessary to address the claim raised in the Petition because we agree with Respondent that Petitioner has failed to comply with the procedural requirements for a habeas petition.

{¶3} A review of the complaint reveals Petitioner has failed to attach all necessary commitment papers in compliance with R.C. 2725.04(D).

{¶4} The Supreme Court has held failure to comply with this requirement is a fatal defect which cannot be cured, “[C]ommitment papers are necessary for a complete understanding of the petition. Without them, the petition is fatally defective. When a petition is presented to a court that does not comply with R.C. 2725.04(D), there is no showing of how the commitment was procured and there is nothing before the court on which to make a determined judgment except, of course, the bare allegations of petitioner's application.” *Bloss v. Rogers*, 65 Ohio St.3d 145, 602 N.E.2d 602.

{¶5} We find failure to include all pertinent commitment papers has made a complete understanding of the petition impossible.

{¶6} Further, Petitioner has further failed to comply with R.C. 2969.25 by failing to file an affidavit detailing his prior civil filings. The Supreme Court has held, “The

requirements of R.C. 2969.25 are mandatory, and failure to comply with them subjects an inmate's action to dismissal." *State ex rel. White v. Bechtel*, 99 Ohio St.3d 11, 2003–Ohio–2262, 788 N.E.2d 634, ¶ 5. Noncompliance with R.C. 2969.25 warrants dismissal. *State ex rel. Graham v. Niemeyer* (2005), 106 Ohio St.3d 466, 106–467, 835 N.E.2d 1250, 1251.

{¶7} Petitioner's failure to include these items requires dismissal of this case.

For this reason, the Petition for Writ of Habeas Corpus is dismissed.

By Gwin, P.J.,
Hoffman, J., and
Farmer, J., concur

HON. W. SCOTT GWIN

HON. WILLIAM B. HOFFMAN

HON. SHEILA G. FARMER

