

IN THE SUPREME COURT OF OHIO

08-0651

LOUIS MONROE  
APPELLANT

CASE NO: \_\_\_\_\_

VS

ON APPEAL FROM THE  
WARREN COUNTY COURT  
OF APPEALS, CASE NO:  
CA 2008-01-001

WANZA JACKSON, WARDEN  
APPELLEE

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MEMORANDUM IN SUPPORT OF JURISDICTION  
OF APPELLANT LOUIS MONROE

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BY:

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The Court erred when it denied Appellants State Habeas Corpus Appellants 4th and 14th AMENDMENT RIGHTS OF THE U.S. CONSTITUTION WERE VIOLATED WHEN THE COMPLAINT FILED BY DET. YOUNG TO SECURE APPELLANTS ARREST WARRANT WAS DEFICIENT, THE COMPLAINT ALSO VIOLATED CRIMINAL RULE 3. _____	3-4
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EXPLANATION OF WHY THIS CASE IS A CASE OF  
PUBLIC OR GREAT GENERAL INTEREST AND  
INVOLVES A SUBSTANTIAL CONSTITUTIONAL QUESTION

This cause presents a critical issue, This COURT along with the U.S. SUPREME COURT and Criminal Rule(3), Clearly states what must be contained in a criminal complaint used to secure an arrest warrant. See U.S. v Beasley 485 F.2d 60, U.S. v Freeman 675 F.2d 121, Jaben v U.S. 85 S.Ct 1364. The complaint filed by Det. Young To secure Appellants arrest warrant clearly violates The Law set forth by the Ohio Supreme Court and the U.S. Supreme Court.

STATEMENT OF THE CASE AND FACTS

On January 1st 2004 Louis Monroe was at home asleep on the couch, when he was awoken by a phone call from his wife, Tina Monroe, who wanted to be with him for the New Year.

Tina Monroe who was drunk and already angry at her husband over his hesitation in answering her on the phone did come to the residence of 1355 East Mound St. at 12:04 am, where she stayed 4 to 6 minutes then left with Macheal Pack and Yavon Walker, the people who were driving her. The Defendant, Louis Monroe then proceeded to go back to sleep where he was latter awoken by Mrs. Monroe, who in a jealous drunken rage began to scream and accuse the defendant of having another woman in there home. Mrs. Monroe attempted to use the phone but discovering it did not work she became even more angry and at this point she began to physicaly assult the defendant with the telephone. The defendant Mr. Louis Monroe attempted to calm his wife stating that she should calm down and they should go to bed.

This seemed to infuriate Mrs. Monroe even more who then picked up her efforts to assult her husband the defendant. At this point the defendant Mr. Monroe lost his Conchious Memory, only while walking down the street did he realize that he had blood on his hands, upon discovering this and out of concern for his wife. Upon discovering that his wife had passed the defendant Louis Monroe, immeadatly turned himself in to the Police.

ARGUMENT IN SUPPORT OF PROPOSITION OF LAW

PROPOSITION OF LAW NO. 1

PETITIONERS' 4th and 14th AMENDMENT RIGHTS OF THE UNITED STATES CONSTITUTION WERE VIOLATED WHEN THE COMPLAINT FILED BY DETECTIVE YOUNG TO SECURE PETITIONERS ARREST WARRANT WAS DEFICIENT, THE COMPLAINT ALSO VIOLATED CRIMINAL RULE 3

This ground is based on petitioners 4th and 14th Amendment Rights being violated and criminal rule (3)

According to the law, and Criminal Rule Three (3) A complaint upon which Arrest Warrant was based, which merely consisted of allegations containing conclusion of facts that described the offense, which set forth neither the evidence nor the source of any information and with respect to which there was no corroborating evidence presented either within fourcorners of the complaint or orally, was deficient.

U.S. v Beasley 485 F.2d 60.

In U.S. v Freeman 675 Fs 121, The Court stated:

"Where warrant for arrest of defendant was based upon verified complaint which stated only the essential elements of crime charged and failed to recite that affiant had personal knowledge of facts or to divulge sources of belief and other facts upon which finding of probable cause could be made, and no oral testimony was taken, warrant for arrest was illegal."

The United States Supreme Court stated in Jaben v U.S. 85 S.Ct 1364,

"The complaint must provide foundation for magistrates' neutral judgement that resort to further criminal process is Justified, and so it must give the affiants answer to Magistrates hypothetical question, what makes you think that the defendant committed the offense charged?"

In the case at hand, the complaint filed against Petitioner by Detective Young lacks the answer to any question that might have

been asked of her. The complaint also only states the essential elements of the crime. The complaint also fails to recite that Detective Young had personal knowledge of facts of to divulge sources of belief and other facts upon which findings of probable cause could be made, and no oral testimony was taken. (see exhibit 1-A copy of complaint). The complaint used to secure Petitioners arrest warrant is deficient and should never have been issued. Therefore according to the law, Petitioner was illegally arrested. Petitioners Indictment & Conviction are fruits of the poisonous tree.

Petitioner Prays that this court finds this ground well taken and grant him the relief the Constitution guarantees him. A Evidentary Hearing must be Held on this issue.

#### CERTIFICATE OF SERVICE

Petitioner, Louis Monroe, hereby certify that a True copy of the foregoing Petition was sent by regular U.S. Mail to the Warren County Prosecutor's Office. On this the 2<sup>nd</sup> day of APRIL 2008.

1st Louis G. Monroe  
Louis Monroe

IN THE COURT OF APPEALS WARREN COUNTY, OHIO

COURT OF APPEALS  
WARREN COUNTY  
FILED

FEB 22 2008

STATE OF OHIO ex rel.  
LOUIS MONROE,

*James L. Spaeth, Clerk* CASE NO. CA2008-01-001  
LEBANON OHIO

Petitioner, : ENTRY GRANTING MOTION TO  
DISMISS

vs. :

WANZA JACKSON, Warden, :

Respondent.

The above cause is before the court pursuant to a petition for writ of habeas corpus filed by petitioner, Louis Monroe, on January 3, 2008, and a motion to dismiss filed by counsel for respondent, Wanza Jackson, Warden, on January 23, 2008. Petitioner is an inmate at Warren Correctional Institution; respondent is the warden of Warren Correctional Institution.

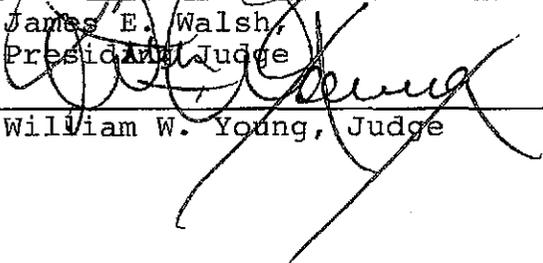
Habeas corpus is a writ directed to the person detaining another demanding that the person produce the body of the person being detained for the purpose of testing the legality of the detention or confinement. Habeas corpus is generally not available if the petitioner has an adequate remedy at law. *Ross v. Saros* (2003), 99 Ohio St.3d 412, 2003-Ohio-1128. Habeas corpus may not be used as a substitute for other forms of action, such as direct appeal, post-conviction relief or mandamus. *Adams v. Humphreys* (1986), 27 Ohio St.3d 43. The existence of an alternative remedy is enough to remove a petitioner's allegations from habeas consideration, whether the remedy is still available or not as long as the petitioner could have taken advantage of it previously. See *Luna v. Russell* (1994), 70 Ohio St.3d 561, 2004-Ohio-264. *Davie v. Edwards* (1997), 80 Ohio St.3d 170.

The basis of the present petition for writ of habeas corpus is that the complaint filed by a detective to secure the arrest warrant which led to petitioner's arrest and conviction "lacked probable cause and was deficient." Clearly, this is an argument that can be or could have been raised on direct appeal or in a petition for post-conviction relief. Accordingly, habeas corpus is not available. The motion to dismiss is therefore with merit, and the same is hereby GRANTED. This cause is hereby DISMISSED, costs to petitioner.

IT IS SO ORDERED.

  
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Stephen W. Powell, Judge

  
\_\_\_\_\_  
James E. Walsh,  
Presiding Judge

  
\_\_\_\_\_  
William W. Young, Judge