

**IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
TRUMBULL COUNTY, OHIO**

RALPH BLEVINS,	:	OPINION
Petitioner-Appellant,	:	
- vs -	:	CASE NO. 2017-T-0083
CHARMAINE BRACY, WARDEN,	:	
Respondent-Appellee.	:	

Civil Appeal from the Trumbull County Court of Common Pleas, Case No. 2017 CV 00716.

Judgment: Affirmed.

Ralph Blevins, pro se, PID: A684-438, Trumbull Correctional Institution, 5701 Burnett Road, Leavittsburg, OH 44430 (Petitioner-Appellant).

Mike DeWine, Ohio Attorney General, State Office Tower, 30 East Broad Street, 16th Floor, Columbus, OH 43215, and *Maura O’Neill Jaite*, Senior Assistant Attorney General, Criminal Justice Section, 150 East Gay Street, 16th Floor, Columbus, OH 43215 (For Respondent-Appellee).

COLLEEN MARY O’TOOLE, J.

{¶1} Appellant, Ralph Blevins, appeals from the August 3, 2017 judgment of the Trumbull County Court of Common Pleas, dismissing his pro se petition for a writ of habeas corpus. Finding no reversible error, we affirm.

{¶2} On April 26, 2017, appellant filed a pro se R.C. Chapter 2725 petition for a writ of habeas corpus.¹ On May 12, 2017, appellant filed an addendum to his petition which was docketed as a “letter.” Appellee, Charmaine Bracy, Warden, filed a Civ.R. 12(B)(6) motion to dismiss and/or motion for summary judgment and a response in opposition to appellant’s addendum. Appellant filed a response. Appellee filed a reply. Appellant filed a sur-reply and two more addendums.

{¶3} On August 3, 2017, the trial court granted appellee’s motion to dismiss and/or motion for summary judgment. The court found that appellant’s habeas petition was defective on its face because he failed to attach the proper commitment papers and that he is not entitled to the relief sought because he failed to demonstrate that he was entitled to credit for his federal prison time. Appellant filed a timely pro se appeal and asserts the following assignment of error:

{¶4} “The Court of Common Pleas erred in denying Blevins’s Motion for Summary Judgment, resulting in a violation of Blevins’s right to Due Process under the Fourteenth Amendment of the U.S. Constitution and Article 1, Section 10 of the Ohio Constitution.”

{¶5} At the outset, we note that contrary to appellant’s assertion, the record reveals he did not file a motion for summary judgment. In addition, constitutional due process claims are not cognizable in an R.C. Chapter 2725 habeas corpus action, but rather must be raised on direct appeal or in post-conviction relief proceedings. *State ex*

1. Appellant is currently incarcerated at Trumbull Correctional Institution pursuant to unexpired prison sentences and parole violations pertaining to two Cuyahoga County Court of Common Pleas cases, Case Nos. CR225807 and CR368194, in which he was convicted of two charges of aggravated robbery, possession of criminal tools, having weapons while under disability, and aggravated robbery with a firearm specification. The Ohio Department of Rehabilitation and Correction calculates appellant’s maximum sentence expiration date as April 21, 2031.

rel. Bevins v. Johnson, 133 Ohio St.3d 80, 2012-Ohio-3922, ¶1; *Bellman v. Jago*, 38 Ohio St.3d 55, 55-56 (1988).

{¶6} R.C. Chapter 2725 allows one claiming to be unlawfully restrained the opportunity to seek release from confinement by petitioning for a writ of habeas corpus. An application for the writ is a civil proceeding. *Horton v. Collins*, 83 Ohio App.3d 287, 291 (9th Dist.1992), citing *Henderson v. James*, 52 Ohio St. 242, 244 (1895). An appellate court should review a habeas corpus decision as it would review a decision in any other case. See R.C. 2725.26.

{¶7} In this matter, the trial court granted appellee's motion to dismiss and/or motion for summary judgment. Appellate review of a trial court's judgment dismissing a claim pursuant to Civ.R. 12(B)(6) and/or motion for summary judgment is de novo. *West v. Sheets*, 11th Dist. Lake No. 2001-L-183, 2002-Ohio-7143, ¶9 (motion to dismiss); *Meloy v. Circle K Store*, 11th Dist. Portage No. 2012-P-0158, 2013-Ohio-2837, ¶6, citing *Grafton v. Ohio Edison Co.*, 77 Ohio St.3d 102, 105 (1996) (motion for summary judgment).

{¶8} Upon review of appellant's petition, it is apparent that it is defective on its face and that the trial court committed no error in granting appellee's motion to dismiss and/or motion for summary judgment. Appellant has failed to satisfy the basic statutory requirements for bringing a proper habeas corpus action.

{¶9} Appellant did not attach his sentencing entries, parole award orders, and parole revocation orders. Thus, because appellant failed to attach the necessary papers his petition was subject to dismissal. R.C. 2725.04(D); *Waites v. Gansheimer*, 110 Ohio St.3d 250, 2006-Ohio-4358, ¶7; *State ex rel. Cruz v. Sloan*, 11th Dist.

Ashtabula No. 2014-A-0032, 2014 WL 6612264, ¶12 (petition dismissed due to failure to attach sentencing entry or commitment papers). This court has held:

{¶10} “[T]he petitioner must file all pertinent commitment papers along with the petition. R.C. 2725.04(D). Attaching only some of the paperwork is insufficient. *State ex rel. Johnson v. Ohio Dept. of Rehab. & Corr.*, 95 Ohio St.3d 70, 71 (2002). If any of the required commitment papers is not included with the petition, it is defective. *Id.* The Ohio Supreme Court has held that the commitment papers are necessary for a complete understanding of the petition. *Bloss v. Rogers*, 65 Ohio St.3d 145, 146 (1992). ‘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.’ *Id.*” *Bolden v. Lake Cty. Sheriff*, 11th Dist. Lake No. 2015-L-043, 2015-Ohio-2613, ¶4.

{¶11} In addition, as stated, appellant is currently serving his sentence and is incarcerated at Trumbull Correctional Institution. Appellant’s maximum prison sentence does not expire until April 21, 2031.² We note that “‘(h)abeas corpus is available where an individual’s maximum sentence has expired and he is being held unlawfully.’ *Adkins v. McFaul*, 76 Ohio St.3d 350, 351 (1996), citing *Morgan v. Ohio Adult Parole Auth.*, 68 Ohio St.3d 344 (1994).” *Pesci v. Ganshiemer*, 11th Dist. Ashtabula No. 2011-A-0049, 2012-Ohio-123, ¶14. Since appellant has not served his maximum sentence, he is not entitled to immediate release as a matter of law. *Pesci* at ¶14.

2. Appellant’s next parole board hearing review is in September 2018.

{¶12} For the foregoing reasons, appellant's sole assignment of error is not well-taken. The judgment of the Trumbull County Court of Common Pleas is affirmed.

CYNTHIA WESTCOTT RICE, P.J.,

THOMAS R. WRIGHT, J.,

concur.