

[Cite as *Ross v. Tate*, 2001-Ohio-3371.]

STATE OF OHIO, BELMONT COUNTY
IN THE COURT OF APPEALS
SEVENTH DISTRICT

ROBERT ROSS,)	
)	CASE NO. 97 BA 30
APPELLANT,)	
)	
- VS -)	<u>OPINION</u>
)	
ARTHUR TATE, WARDEN,)	
)	
APPELLEE.)	

CHARACTER OF PROCEEDINGS:	Appeal from Belmont County Common Pleas Court, Case No. 97 CV 00176.
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JUDGMENT:	Dismissed as Moot.
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APPEARANCES:
For Appellant:

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For Appellee:

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JUDGES:

Hon. Joseph J. Vukovich

Hon. Gene Donofrio

Hon. Mary DeGenaro

Dated: September 17, 2001

DeGenaro, J.

{¶1} This appeal comes for consideration upon the brief of Appellant, Robert Ross, challenging the Belmont County Common Pleas Court's order denying his Petition for Habeas Corpus. For the following reasons, we dismiss the instant appeal as it is moot.

{¶2} Appellant's habeas petition was dismissed by the trial court on February 18, 1997, concluding habeas relief will not lie for the purpose of taking one from an institution who has been placed in such institution by the order of a court of competent jurisdiction. Appellant filed his Notice of Appeal on May 2, 1997, giving the appearance Appellant's appeal is untimely, however, the record reveals the dismissal entry does not contain the service endorsement required by Civ.R. 58(A). Thus, as provided by that rule and App.R. 4(A), it appears we have jurisdiction over this appeal.

{¶3} However, this issue is now moot. The Belmont County Prosecuting Attorney filed with this court a notice on March 23, 2001 that Appellant was released from the Belmont County Correctional Institute on September 9, 1997, and further, was released from parole on October 21, 1998. Prior to this notification, there were no filings made by parties other than Appellant's merit brief.

{¶4} The instant appeal is therefore dismissed as moot.

Vukovich, P.J., Concurs.

Donofrio, J., Concurs.