

[Cite as *Ward v. Eberlin*, 2008-Ohio-6625.]

STATE OF OHIO, BELMONT COUNTY

IN THE COURT OF APPEALS

SEVENTH DISTRICT

DARRIN WARD,)	
)	
PETITIONER,)	CASE NO. 08-BE-2
)	
VS.)	OPINION
)	AND
MICHELE EBERLIN, WARDEN,)	JOURNAL ENTRY
)	
RESPONDENT.)	

CHARACTER OF PROCEEDINGS: Petition for Writ of Habeas Corpus

JUDGMENT: Petition for Writ of Habeas Corpus
Dismissed

APPEARANCES:
FOR PETITIONER

Darrin Ward, Pro-se
#244-092
Belmont Correctional Institution
P.O. Box 540
St. Clairsville, Ohio 43950

FOR RESPONDENT

No appearances made

JUDGES:

Hon. Gene Donofrio
Hon. Joseph J. Vukovich

Hon. Cheryl L. Waite

Date: June 3, 2008

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PER CURIAM.

{¶1} On January 17, 2008 pro-se Petitioner filed a Petition for Writ of Habeas Corpus. Respondent has not answered or otherwise pled in this matter. Nonetheless, we sua sponte dismiss the Petition for the reasons that follow.

{¶2} It may be gleaned from the Petition that Darrin Ward is complaining that he has served the maximum time set in his original plea agreement and that his sentence was enhanced at a Parole Board Hearing conducted on January 16, 2007. Yet, the only attachment to the Petition is a Parole Board Decision with a hearing date of October 12, 2006 indicating that it was rescheduled to allow for a Clinical Risk Assessment.

{¶3} Moreover, Petitioner has not attached papers showing the cause of his commitment, which is required under R.C. 2725.04(D). That provision states that the Petition shall include:

{¶4} “(D) A copy of the commitment or cause of detention of such person shall be exhibited, if it can be procured without impairing the efficiency of the remedy; or, if the imprisonment or detention is without legal authority, such fact must appear.”

{¶5} Failure to attach copies of the commitment papers to the habeas corpus petition is cause for dismissal. *Kemp v. Ishee*, 7th Dist. 03MA182, 2004-Ohio-390. A habeas petition is totally defective and subject to dismissal when commitment papers are not attached. *Johnson v. Bobby* (2004), 103 Ohio St.3d 96, 2004-Ohio-4438.

{¶6} Without a copy of the sentencing entry, this Court will not be able to discern the appropriate length of sentence to which Petitioner is subjected.

{¶7} Finally, Petitioner has no constitutionally protected liberty interest in being granted parole before expiration of his maximum sentence. *Perotti v. Ishee* (Oct. 29, 2001), Mahoning App. No. 01CA88. Without a copy of the sentencing entry demonstrating the term of incarceration it cannot be determined whether there is any merit to Petitioner’s claim that his sentence was enhanced in some manner. Also, it is imperative that Petitioner provide all the documents upon which he bases his assertion that the Parole Board somehow extended his sentence.

{¶8} For all the above stated reasons, the Petition for Writ of Habeas Corpus is dismissed. Costs taxed against Petitioner.

{¶9} Final Order. Clerk to serve notice as provided by the civil rules.

Donofrio, J., concurs.

Vukovich, J., concurs.

Waite, J., concurs.