

[Cite as *Clark v. Miller*, 2013-Ohio-2958.]

## STATE OF OHIO, BELMONT COUNTY

IN THE COURT OF APPEALS

## SEVENTH DISTRICT

RICHARD D. CLARK

PETITIONER

VS.

MICHELLE MILLER, WARDEN

RESPONDENT

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CASE NO. 13 BE 13

## OPINION AND JUDGMENT ENTRY

CHARACTER OF PROCEEDINGS:

# Petition for Writ of Habeas Corpus

**JUDGMENT:**

Dismissed.

APPEARANCES:

For Petitioner:

Richard D. Clark, Pro se  
#A647-758  
Belmont Correctional Institution  
P.O. Box 540  
St. Clairsville, Ohio 43950

For Respondent:

Atty. Mike DeWine  
Attorney General of Ohio  
Atty. Mary Anne Reese  
Assistant Attorney General  
Criminal Justice Section  
441 Vine Street, Suite 1600  
Cincinnati, Ohio 45202

**JUDGES:**

Hon. Cheryl L. Waite  
Hon. Joseph J. Vukovich  
Hon. Mary DeGenaro

Dated: June 28, 2013

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PER CURIAM.

{¶1} Petitioner Richard D. Clark has filed a petition for writ of habeas corpus pursuant to R.C. 2725.01, *et seq.* He requests to be immediately released from prison because he allegedly was not credited with 249 days of jail-time credit. Petitioner failed to attach any pertinent commitment papers to his petition as required by R.C. 2725.04(D). Petitioner refers to four different criminal case numbers in his petition, and it is unclear from the petition what county, or even what state, is involved in any of these cases, much less any particulars about the reasons for and length of the sentence of incarceration in any of the cases. Failure to attach copies of commitment papers, such as the judgment entry of sentence, as part of the original filing of the petition for habeas corpus requires the dismissal of the petition. *Bloss v. Rogers*, 65 Ohio St.3d 145, 146, 602 N.E.2d 602 (1992).

{¶2} Further, Petitioner failed to attach to his petition an affidavit describing the civil actions he has filed within the past five years, as required by R.C. 2969.25(A). The Ohio Supreme Court has held that the requirements in R.C. 2969.25(A) apply to state habeas corpus actions. *Fuqua v. Williams*, 100 Ohio St.3d 211, 2003-Ohio-5533, 797 N.E.2d 982, ¶2, 6-9. Failure to file the required affidavit of prior civil actions is grounds for immediate dismissal of a habeas petition, and the petition cannot be amended to correct the error. *Waters v. Wolfe*, 7th Dist. No. 06 NO 336, 2007-Ohio-358, ¶11; *State ex rel. Washington v. Ohio Adult Parole Auth.*, 87 Ohio St.3d 258, 259, 719 N.E.2d 544 (1999); *Fuqua* at ¶9. Since we resolved one of Petitioner's prior habeas filings only a few months ago, we are well aware that he has at least one prior case that should have been included on the mandatory notification.

*Clark v. Miller*, 7th Dist. No. 12 BE 32, 2012-Ohio-5606. Petition *sua sponte* dismissed.

{¶3} Final order. Clerk to serve notice as provided by the Civil Rules.

Waite, J., concurs.

Vukovich, J., concurs.

DeGenaro, P.J., concurs.