

POINTER, APPELLANT, v. RUSSO, JUDGE, APPELLEE.

[Cite as *Pointer v. Russo*, 144 Ohio St.3d 13, 2015-Ohio-2078.]

Habeas corpus—Failure to attach commitment papers—Failure to verify petition—R.C. 2725.04—Adequate remedy at law available through appeal—Dismissal of petition affirmed.

(No. 2014-1487—Submitted February 3, 2015—Decided June 3, 2015.)

APPEAL from the Court of Appeals for Cuyahoga County, No. 101548,
2014-Ohio-3244.

Per Curiam.

{¶ 1} We affirm the Eighth District Court of Appeals’ dismissal of petitioner-appellant Dennis Pointer’s petition for a writ of habeas corpus because of the numerous procedural deficiencies in his petition and because he has an adequate alternate remedy in the ordinary course of the law.

{¶ 2} Pointer was convicted of various offenses, including murder and sexual battery, and is currently serving a sentence of 15 years to life. Pointer filed an action in habeas corpus in which he asserts that a sex-offender-classification hearing is pending before respondent-appellee, Judge Joseph D. Russo, and that the hearing is in violation of his plea agreement. He seeks an order to compel Judge Russo to order his release from prison.

{¶ 3} Judge Russo filed a motion to dismiss the petition, which the court of appeals granted. Pointer appealed.

{¶ 4} The court of appeals correctly dismissed the case based on the numerous procedural defaults in Pointer’s petition. Among many other problems with the petition, Pointer failed to attach any commitment papers in violation of R.C. 2725.04(D). Such a failure is fatal to a petition for habeas corpus. *State ex*

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rel. McCuller v. Callahan, 98 Ohio St.3d 307, 2003-Ohio-858, 784 N.E.2d 108, ¶ 4, citing *State ex rel. Johnson v. Ohio Dept. of Rehab. & Corr.*, 95 Ohio St.3d 70, 71, 765 N.E.2d 356 (2002), *Malone v. Lane*, 96 Ohio St.3d 415, 2002-Ohio-4908, 775 N.E.2d 527, at ¶ 6, and *Chari v. Vore*, 91 Ohio St.3d 323, 328, 744 N.E.2d 763 (2001). Moreover, although not mentioned by the court of appeals, the complaint did not comply with the verification requirement of R.C. 2725.04. *Malone* at ¶ 6; *Chari* at 328.

{¶ 5} The court of appeals also properly dismissed the complaint because Pointer has an adequate alternate remedy at law in that he may appeal any adverse ruling resulting from the sex-offender-classification hearing on all the grounds that he brings up in his habeas action, including violation of a plea agreement. *Plassman v. Ohio Adult Parole Auth.*, 141 Ohio St.3d 14, 2014-Ohio-4033, 21 N.E.3d 271, ¶ 4, citing *Arnett v. Sheets*, 4th Dist. Ross No. 10CA3156, 2010-Ohio-3985, ¶ 7, citing *State ex rel. Rowe v. McCown*, 108 Ohio St.3d 183, 2006-Ohio-548, 842 N.E.2d 51, at ¶ 5.

Judgment affirmed.

O’CONNOR, C.J., and PFEIFER, LANZINGER, KENNEDY, FRENCH, and O’NEILL, JJ., concur.

O’DONNELL, J., concurs in judgment only.

Dennis Pointer, pro se.

Timothy J. McGinty, Cuyahoga County Prosecuting Attorney, and James E. Moss, Assistant Prosecuting Attorney, for appellee.
