

THE STATE EX REL. FRAZIER, APPELLANT, v. BRIGANO, WARDEN, APPELLEE.

[Cite as *State ex rel. Frazier v. Brigano*, 102 Ohio St.3d 148, 2004-Ohio-2139.]

Habeas corpus — Failure to comply with three-judge panel requirement of R.C.

2945.06 must be raised on direct appeal rather than by collateral attack

— Pratts v. Hurley, followed.

(No. 2003-0753 — Submitted April 14, 2004 — Decided May 12, 2004.)

APPEAL from the Court of Appeals for Warren County, No. CA2003-01-001.

Per Curiam.

{¶1} On March 26, 2003, the Court of Appeals for Warren County dismissed the petition of appellant, John Wesley Frazier, for a writ of habeas corpus. Frazier claimed that the acceptance of his guilty plea in a capital case by a single judge rather than a three-judge panel violated R.C. 2945.06 and thereby divested his trial court of jurisdiction and entitled him to the writ. On appeal, we held this cause for a decision in *Pratts v. Hurley*, Supreme Court case Nos. 2003-0392, 99 Ohio St.3d 1408, 2003-Ohio-2454, 788 N.E.2d 646, and 2003-0560, 99 Ohio St.3d 1406, 2003-Ohio-2454, 788 N.E.2d 644. *State ex rel. Frazier v. Brigano*, 100 Ohio St.3d 1512, 2003-Ohio-6398, 799 N.E.2d 638.

{¶2} On May 5, 2004, we held in *Pratts v. Hurley*, 102 Ohio St.3d 81, 2004-Ohio-1980, 806 N.E.2d 992, that an alleged violation of R.C. 2945.06 is not a proper subject for habeas corpus relief and may be remedied only in a direct appeal from a criminal conviction. See, also, *State ex rel. Collins v. Leonard* (1997), 80 Ohio St.3d 477, 478, 687 N.E.2d 443.

{¶3} Based on the foregoing, we affirm the judgment of the court of appeals.

Judgment affirmed.

SUPREME COURT OF OHIO

MOYER, C.J., RESNICK, F.E. SWEENEY, PFEIFER, LUNDBERG STRATTON,
O'CONNOR and O'DONNELL, JJ., concur.

Arenstein & Gallagher and William R. Gallagher, for appellant.

Jim Petro, Attorney General, and Diane Mallory, Assistant Attorney
General, for appellee.
