

COURT OF APPEALS
RICHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

DAVID L. PARSONS, JR.	:	JUDGES:
	:	
Petitioner	:	Hon. Sheila G. Farmer, P.J.
-vs-	:	Hon. John W. Wise, J.
	:	Hon. Patricia A. Delaney, J.
	:	
RICHARD HALL, WARDEN	:	
	:	CASE NO. 09CA78
Respondent	:	
	:	<u>OPINION</u>

CHARACTER OF PROCEEDING: Petition for Writ of Habeas Corpus

JUDGMENT: WRIT DISMISSED

DATE OF JUDGMENT ENTRY: OCTOBER 28, 2009

APPEARANCES:

For Petitioner – pro se

DAVID L. PARSONS, JR. (#561248)
c/o Richland Correctional Institution
P.O. Box 8107
Mansfield, Ohio 44901

For Respondent:

DIANE MALLORY
Assistant Attorney General
150 East Gay Street, 16th Floor
Columbus, Ohio 43215

Delaney, J.,

{¶1} Petitioner, David Parsons, has filed a Complaint for Writ of Habeas Corpus. Respondent has filed a motion to dismiss urging this Court to find the Complaint to be moot because Petitioner has been released from prison. Petitioner has not filed a response to the motion to dismiss.

{¶2} Parsons was sentenced to a total term of thirteen months in prison for convictions of Complicity to Theft and Arson. Petitioner argues he did not receive the correct amount of jail-time credit. He further avers if the proper amount of jail-time credit had been awarded, Petitioner would be entitled to immediate release from the custody of the Ohio Department of Corrections. Respondent advises this Court Petitioner was released from the custody of the Ohio Department of Corrections on June 29, 2009.

{¶3} Habeas Corpus is an extraordinary remedy available only if the petitioner is entitled to the immediate release from confinement, *State ex rel. Jackson v. McFaul*, 73 Ohio St.3d 185, 1995-Ohio-228, 652 N.E.2d 746; R.C. 2725.01 et seq. Further, “habeas corpus is not available when there is an adequate remedy in the ordinary course of law.” *In re Complaint for Writ of Habeas Corpus for Goeller*, 103 Ohio St.3d 427, 2004-Ohio-5579, 816 N.E.2d 594, ¶6.

{¶4} The Supreme Court has held, “[A defendant has] an adequate remedy at law by appeal to raise any error by the trial court in calculating his jail-time credit. *State ex rel. Brown v. Summit Cty. Court of Common Pleas*, 99 Ohio St.3d 409, 2003-Ohio-4126, 792 N.E.2d 1123, ¶4.” *State ex rel. Rudolph v. Horton*, 119 Ohio St.3d 350, 351, 894 N.E.2d 49, 50 (Ohio,2008).

{¶5} Because Petitioner has been released, the instant Complaint is moot. Additionally, even had we considered the merits of the Complaint, we find Petitioner has or had an adequate remedy at law by way of an appeal to challenge the correct amount of jail time credit he should receive.

{¶6} MOTION DENIED.

{¶7} COMPLAINT DISMISSED.

{¶8} COSTS TO PETITIONER.

By: Delaney, J.
Farmer, P.J. and
Wise, J. concur

HON. PATRICIA A. DELANEY

HON. SHEILA G. FARMER

HON. JOHN W. WISE

