

COURT OF APPEALS
TUSCARAWAS COUNTY, OHIO
FIFTH APPELLATE DISTRICT

JON T. HARMON,

Petitioner,

-vs-

JUDGE EDWARD EMMETT O'FARRELL,

Respondent.

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JUDGES:

Hon. W. Scott Gwin, P.J.

Hon. John W. Wise, J.

Hon. Craig R. Baldwin, J.

Case No. 2019 AP 07 0022

O P I N I O N

CHARACTER OF PROCEEDING:

Writ of Mandamus

JUDGMENT:

Dismissed

DATE OF JUDGMENT:

October 3, 2019

APPEARANCES:

For Petitioner

JON T. HARMON, Pro Se
238 May Road
New Philadelphia, Ohio 44663

For Respondent

ROBERT R. STEPHENSON II
Assistant Prosecuting Attorney
125 East High Avenue
New Philadelphia, Ohio 44663

Baldwin, J.

{¶1} On July 18, 2019, Jon Harmon filed a petition for writ of mandamus to compel Judge Edward E. O’Farrell to continue a hearing the trial court conducted on July 15, 2019. Mr. Harmon further asks this Court to issue a stay to preclude further garnishment of funds until the trial court conducts a hearing and rules on an accounting. On July 26, 2019, the Tuscarawas County Prosecutor, on behalf of Judge O’Farrell, filed a Motion to Dismiss Mr. Harmon’s petition for writ of mandamus. In response, Mr. Harmon filed a Motion to Quash Respondent’s Motion to Dismiss.

{¶2} Upon review of Mr. Harmon’s petition, we grant the prosecutor’s motion to dismiss. Mr. Harmon is not entitled to a writ of mandamus because R.C. 2731.04 provides that an application for writ of mandamus “must be * * * in the name of the state on the relation of the person applying.” “Thus, a petition for writ of mandamus may be dismissed for failure to bring the action in the name of the state.” *Shoop v. State*, 144 Ohio St.3d 374, 2015-Ohio-2068, 43 N.E.3d 432, ¶10, citing *Blankenship v. Blackwell*, 103 Ohio St.3d 567, 2004-Ohio-5596, 817 N.E.2d 382, ¶34. Mr. Harmon’s petition was not brought in the name of the state and therefore, his claim for a writ of mandamus is dismissed.

{¶3} The Court also denies Mr. Harmon’s request for a stay and his request to quash Respondent’s Motion to Dismiss.

{¶4} The clerk of courts is hereby directed to serve upon all parties not in default notice of this judgment and its date of entry upon the journal. See Civ.R. 58(B).

By: Baldwin, J.

Gwin, P.J. and

Wise, John, J. concur.