

[Cite as *State ex rel. Wells v. Corrigan*, 2018-Ohio-5397.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 107716

STATE OF OHIO, EX REL.
ERIC WELLS

RELATOR

vs.

THE HONORABLE BRIAN J. CORRIGAN

RESPONDENT

JUDGMENT:
WRIT DENIED

Writ of Mandamus/Procedendo
Motion No. 522419
Order No. 523535

RELEASE DATE: December 28, 2018

FOR RELATOR

Eric Wells, pro se
Inmate No. 624614
Trumbull Correctional Institution
P.O. Box 901
Leavittsburg, Ohio 44430-0901

ATTORNEYS FOR RESPONDENT

Michael C. O'Malley
Cuyahoga County Prosecutor
By: James E. Moss
Assistant County Prosecutor
The Justice Center, 8th Floor
1200 Ontario Street
Cleveland, Ohio 44113

TIM McCORMACK, J.:

{¶1} Eric Wells has filed a complaint for a writ of mandamus/procedendo. Wells seeks an order from this court that requires Judge Brian J. Corrigan to issue a ruling with regard to a “motion to vacate void judgment” filed in *State v. Wells*, Cuyahoga C.P. No. CR-09-525073-A. Judge Corrigan has filed a motion for summary judgment that is granted for the following reasons.

{¶2} Attached to the motion for summary judgment are copies of journal entries, journalized October 24, 2018, that denied Wells’s motion to vacate void judgment. Relief is unwarranted because neither mandamus nor procedendo will compel the performance of a duty that has already been performed. *State ex rel. Williams v. Croce*, Slip Opinion No. 2018-Ohio-2703; *State ex rel. Hopson v. Cuyahoga Cty. Court of Common Pleas*, 135 Ohio

St.3d 456, 2013-Ohio-1911, 989 N.E.2d 49; *State ex rel. Fontanella v. Kontos*, 117 Ohio St.3d 514, 2008-Ohio-1431, 885 N.E.2d 220. Herein, the request for relief is moot.

{¶3} Wells's complaint is also procedurally defective because he has failed to comply with R.C. 2969.25(A) and 2969.25(C). Pursuant to R.C. 2969.25(A), an inmate that commences a civil action against a government entity or employee must file a sworn affidavit that contains a description of each civil action or appeal of a civil action filed in the previous five years in any state or federal court. *State ex rel. McGrath v. McDonnell*, 126 Ohio St.3d 511, 2010-Ohio-4726, 935 N.E.2d 830. R.C. 2969.25(C)(1) requires that Wells file a statement setting forth his inmate account balance "for each of the preceding six months as certified by the institutional cashier." Wells has failed to provide this court with a notarized affidavit that describes previously filed civil actions and a certified statement setting forth the balance in his inmate account. *Freed v. Bova*, 8th Dist. Cuyahoga No. 99908, 2013-Ohio-4378; *Turner v. Russo*, 8th Dist. Cuyahoga No. 87852, 2006-Ohio-4490.

{¶4} Accordingly, we grant the motion for summary judgment. Costs waived. The court directs the clerk of courts to serve all parties with notice of this judgment and the date of entry upon the journal as required by Civ.R. 58(B).

{¶5} Writ denied.

TIM McCORMACK, JUDGE

EILEEN A. GALLAGHER, A.J., and
FRANK D. CELEBREZZE, JR., J., CONCUR