

**THE STATE EX REL. AKBAR-EL, APPELLANT, v. COURT OF COMMON PLEAS,  
CUYAHOGA COUNTY, APPELLEE.**

**[Cite as *State ex rel. Akbar-El v. Cuyahoga Cty. Court of Common Pleas*,  
2002-Ohio-475.]**

*Mandamus sought to compel Cuyahoga County Court of Common Pleas to vacate  
relator's judgment of conviction and sentence—Dismissal of complaint by  
court of appeals for failure to comply with R.C. 2969.25(A) affirmed.*

(No. 01-1424—Submitted November 27, 2001—Decided February 6, 2002.)

APPEAL from the Court of Appeals for Cuyahoga County, No. 79692.

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***Per Curiam.***

{¶ 1} In May 2001, appellant, Ali A. Akbar-El, an inmate, filed a complaint in the Court of Appeals for Cuyahoga County for a writ of mandamus to compel appellee, Cuyahoga County Court of Common Pleas, to vacate its judgment of conviction and sentence. Akbar-El claimed that the judgment was void. He did not attach the affidavit required by R.C. 2969.25(A) describing his previous civil actions and appeals. See, e.g., *Akbar-El v. Ohio Dept. of Rehab. & Corr.* (1998), 126 Ohio App.3d 644, 711 N.E.2d 236. The common pleas court filed a motion to dismiss.

{¶ 2} In June 2001, the court of appeals granted the motion and dismissed the cause. This cause is now before the court upon an appeal as of right.

{¶ 3} We affirm the judgment of the court of appeals. Akbar-El failed to comply with the requirements of R.C. 2969.25 in commencing this action. *State ex rel. Sherrills v. Franklin Cty. Clerk of Courts* (2001), 92 Ohio St.3d 402, 750 N.E.2d 594, 596. Moreover, habeas corpus, not mandamus, is the proper action to

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seek release from prison. *State ex rel. Carter v. Ohio Adult Parole Auth.* (2000), 89 Ohio St.3d 496, 733 N.E.2d 609.

*Judgment affirmed.*

MOYER, C.J., DOUGLAS, RESNICK, F.E. SWEENEY, PFEIFER, COOK and LUNDBERG STRATTON, JJ., concur.

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*Ali A. Akbar-El, pro se.*

*William D. Mason*, Cuyahoga County Prosecuting Attorney, and *Sherry F. McCreary*, Assistant Prosecuting Attorney, for appellee.

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