

COURT OF APPEALS  
COSHOCTON COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

STATE OF OHIO, EX REL	:	JUDGES:
STEPHEN H. WHITT	:	Hon. W. Scott Gwin, P.J.
	:	Hon. Sheila G. Farmer, J.
Relator	:	Hon. Patricia A. Delaney, J.
	:	
-vs-	:	Case No. 2012CA0014
	:	
COSHOCTON COMMON PLEAS	:	
COURT	:	<u>OPINION</u>
	:	
Respondent	:	

CHARACTER OF PROCEEDING:	Writ of Mandamus
JUDGMENT:	Dismissed
DATE OF JUDGMENT ENTRY:	May 30, 2013

APPEARANCES:

For Relator	For Respondent
STEPHEN H. WHITT PRO SE	JASON W. GIVEN Prosecuting Attorney 318 Chestnut Street Coshocton, OH 43812

Gwin, P.J.

{¶1} Relator, Stephen W. Whitt, has filed a Petition for Writ of Mandamus requesting this Court find Respondent in contempt of court, vacate his conviction, and order a new trial in his underlying criminal case. Attached to the petition is an “Affidavit of Disqualification.” Respondent has only filed a response to the affidavit of disqualification.

{¶2} Initially, we find the affidavit of disqualification was not filed with the Supreme Court as required by R.C. 2501.13. For this reason, we have jurisdiction to address the petition for writ of mandamus.

{¶3} As a preliminary matter, Relator has failed to comply with R.C. 2969.25 by not filing an affidavit detailing his prior civil filings.

{¶4} Further, Relator has named the “Coshocton Common Pleas Court” as the respondent. A court is not sui juris. “A court is defined to be a place in which justice is judicially administered. It is the exercise of judicial power, by the proper officer or officers, at a time and place appointed by law.” *Todd v. United States* (1895), 158 U.S. 278, 284, 15 S.Ct. 889, 891, 39 L.Ed. 982. Absent express statutory authority, a court can neither sue nor be sued in its own right. *State ex rel. Cleveland Municipal Court v. Cleveland City Council* (1973), 34 Ohio St.2d 120, 296 N.E.2d 544.

{¶15} Because Relator has failed to file an affidavit of prior civil filings and because Relator has failed to name a proper respondent, the Petition for Writ of Mandamus is dismissed.

By Gwin, P.J.,  
Farmer, J., and  
Delaney, J., concur

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HON. W. SCOTT GWIN

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HON. SHEILA G. FARMER

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HON. PATRICIA A. DELANEY

WSG:clw 0502

