

IN THE COURT OF APPEALS  
FIFTH APPELLATE DISTRICT  
GUERNSEY COUNTY, OHIO

ROY HART	:	JUDGES:
	:	
Relator	:	
	:	Hon., John W. Wise P.J.
	:	Hon., Patricia A. Delaney
-vs-	:	Hon., Craig R. Baldwin
	:	
MICHAEL GROH	:	
	:	CASE NO. 14-CA-18
	:	
Respondent	:	
	:	<u>OPINION</u>
	:	
CHARACTER OF PROCEEDING:		Writ of Mandamus
JUDGMENT:		Dismissed
DATE OF JUDGMENT ENTRY:		February 10, 2015
APPEARANCES:		
For Relator:		For Respondent:
Roy Hart #A686615		Attorney Michael Groh
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Delaney, J.

{¶1} This matter comes before the Court upon Respondent's Motion to Dismiss. Relator has not filed a response to the motion.

{¶2} The petition filed in this case requested an order from this Court requiring Respondent to turn over Respondent's file to Relator. Respondent indicates that the file has now been turned over to Relator making the petition moot. We agree the petition is now moot. A writ of mandamus will not issue to compel an act already performed. *State ex rel. Jerningham v. Cuyahoga Cty. Court of Common Pleas* (1996), 74 Ohio St.3d 278, 279, 658 N.E.2d 723, 724.

{¶3} We also find dismissal is proper because "relator's petition is defective since it is improperly captioned. The complaint for an extraordinary writ must be brought by petition, in the name of the state on relation of the person applying. Relator's failure to properly caption his petition for a writ of mandamus constitutes sufficient reason for dismissal. *Allen v. Court of Common Pleas of Allen County* (1962), 173 Ohio St. 226, 181 N.E.2d 270; *Dunning v.. Judge Cleary, et al.* (Jan. 11, 2001), Cuyahoga App. No. 78763." *Ringel v. Case W. Res. Univ.*, 8<sup>th</sup> Dist. Cuyahoga No. 82042, 2003-Ohio-186.

{¶4} For these reasons, we grant the motion to dismiss.

MOTION GRANTED.

CAUSE DISMISSED.

COSTS TO RELATOR.

By: Delaney, J.

Wise, P.J. and

Baldwin, J. concur

[Cite as *Hart v. Groh*, 2015-Ohio-536.]