

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

State of Ohio

Court of Appeals No, L-02-1190

Appellee

Trial Court No. CR-02-1029

v.

David Adkins

DECISION AND JUDGMENT ENTRY

Appellant

Decided: May 12, 2004

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David L. Adkins, pro se.

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PIETRYKOWSKI, J.

{¶1} This matter is before the court on the petition of pro se petitioner David L. Adkins requesting that this court issue a writ of procedendo ordering respondent Judge Robert Christiansen of the Lucas County Court of Common Pleas to rule on his pending “motion for a writ of mandamus.”

{¶2} 6th Dist.Loc.App.R. 6 provides that upon the filing of an original action, the petitioner shall “*** file a praecipe directing the clerk of the court of appeals to serve a copy of the complaint on each other party at the addresses listed in the praecipe.” The record before us reveals that Adkins did not file a praecipe along with his petition.

Accordingly, respondent has not been served with a copy of the petition. Moreover, Adkins' petition is not in the name of the state on the relation of the person applying. Such is required by R.C. 2731.04 in mandamus actions and we see no reason for not applying the same standard to actions in procedendo. Finally, Adkins has filed the current motion under 6th Dist. No. L-02-1190, the case number assigned to his original appeal from his conviction and sentence. A petition for a writ of procedendo is an original action requiring the filing of an original complaint and filing fees as set forth in 6th Dist.Loc.App.R. 7(A).

{¶3} For these reasons, we find the petition for a writ of procedendo not well-taken and thus deny it. This cause is dismissed at petitioner's costs.

WRIT DISMISSED.

Richard W. Knepper, J.

JUDGE

Mark L. Pietrykowski, J.

JUDGE

Judith Ann Lanzinger, J.
CONCUR.

JUDGE