

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

Melvin A. Woods

Court of Appeals No. L-06-1030

Relator

v.

Jack Smith, Chief, The City of
Toledo Department of Police

DECISION AND JUDGMENT ENTRY

Respondent

Decided: February 15, 2006

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Mark I. Jacobs, for relator.

* * * * *

PARISH, J.

{¶1} This matter is before this court on a "Petition for Writ of Mandamus" filed by relator, Melvin A. Woods, against respondent, Jack Smith, Chief of The City of Toledo Department of Police. In his petition relator, a member of the Toledo Police Department, states that on May 11, 2002, he became a "disability benefit recipient," as defined by R.C. 742.40(A); however, on November 22, 2005, his disability pension was terminated pursuant to R.C. 742.40(C)(3). Accordingly, relator asks this court to order respondent to show cause as to why he should not be required to restore relator to a same

or similar position and afford relator all previous rights, including civil service status, since May 11, 2002, pursuant to R.C. 742.40(C)(1).

{¶2} R.C. 2731.04 states that an "[a]pplication for the writ of mandamus must be by petition, in the name of the state on the relation of the person applying * * *." The Supreme Court of Ohio has held that "failure to properly caption a mandamus action is sufficient grounds for denying the writ and dismissing the petition." *Hunter v. Sutula*, 8th Dist. No. 87533, 2006-Ohio-379, at ¶ 7, citing *Maloney v. Court of Common Pleas of Allen Cty* (1962), 173 Ohio St. 226.

{¶3} In this case, relator has styled his petition as "Melvin A. Woods v. Jack Smith, Chief, The City of Toledo Department of Police." Accordingly, relator's petition is defective on its face, and his application for a writ of mandamus is therefore denied.

{¶4} Case dismissed at relator's costs.

WRIT DISMISSED.

Peter M. Handwork, J.

JUDGE

Mark L. Pietrykowski, J.

JUDGE

Dennis M. Parish, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at: http://www.sconet.state.oh.us/rod/newpdf/?source=6.
