

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

Lawrence E. Thomas

Court of Appeals No. L-10-1119

Appellant (Relator)

v.

State of Ohio

DECISION AND JUDGMENT

Appellee (Respondent)

Decided: May 26, 2010

* * * * *

Lawrence E. Thomas, pro se.

Julia R. Bates, Lucas County Prosecuting Attorney, and
Brenda J. Majdalani, Assistant Prosecuting Attorney, for appellee.

* * * * *

HANDWORK, J.

{¶ 1} This matter is before the court on a petition for writ of mandamus filed by relator, Lawrence E. Thomas. In his pro se petition, Thomas asks this court to order the Lucas County Court of Common Pleas to resentence him pursuant to *State v. Baker*, 119

Ohio St.3d 197. Respondent, the state of Ohio, filed a motion to stay the proceedings in this action until such time that the Supreme Court of Ohio renders its decision in *State v. Ketterer*, Nos. 2007-1261, 2007-2425. For the following reason, appellant's petition must be dismissed.

{¶ 2} Pursuant to R.C. 2969.25(A), an inmate who "commences a civil action or appeal against a government entity or employee, * * * shall file with the court an affidavit that contains a description of each civil action or appeal of a civil action that the inmate has filed in the previous five years in any state or federal court. The affidavit shall include all of the following for each of those civil actions or appeals:

{¶ 3} "(1) A brief description of the nature of the civil action or appeal;

{¶ 4} "(2) The case name, case number, and the court in which the civil action or appeal was brought;

{¶ 5} "(3) The name of each party to the civil action or appeal;

{¶ 6} "(4) The outcome of the civil action or appeal, including whether the court dismissed the civil action or appeal as frivolous or malicious under state or federal law or rule of court, whether the court made an award against the inmate or the inmate's counsel of record for frivolous conduct under section 2323.51 of the Revised Code, another statute, or a rule of court, and, if the court so dismissed the action or appeal or made an award of that nature, the date of the final order affirming the dismissal requires the

attachment of an affidavit to the complaint for a writ of mandamus that describes each civil action or appeal filed within the previous five years in any state or federal court."

{¶ 7} If a relator/inmate fails to comply with R.C. 2969.25, his complaint must be dismissed. *State ex rel. Zanders v. Ohio Parole Bd.*, 82 Ohio St.3d 421, 1998- Ohio-218; *State ex rel. Alford v. Winters*, 80 Ohio St.3d 285, 1997-Ohio-117; *State ex rel. Elam v. Erie Cty. Common Pleas Court*, 6th Dist. No. E-08-001, 2008-Ohio-1560, ¶ 5. Relator, who is an inmate at Trumbull Correctional Institution, did not adhere to the dictates of R.C. 2969.25 in filing his petition against the state of Ohio; therefore, his petition for writ of mandamus is, hereby, dismissed. Respondent's motion for a stay of proceedings is rendered moot. Costs of this action are assessed to relator. To the clerk: Serve upon all parties notice of the judgment and its date of entry upon the journal.

WRIT DISMISSED.

Peter M. Handwork, J.

JUDGE

Mark L. Pietrykowski, J.

JUDGE

Keila D. Cosme, 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.
