

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

State of Ohio, ex rel. Brandon Brotherton

Court of Appeals No. H-15-032

Relator

v.

Clerk, Huron County Court of Common Pleas

DECISION AND JUDGMENT

Respondent

Decided: March 2, 2016

* * * * *

Brandon Brotherton, pro se.

Daivia S. Kasper, Huron County Prosecuting Attorney, and
Marques A. Binette, Assistant Prosecuting Attorney, for respondent.

* * * * *

OSOWIK, J.

{¶ 1} Relator, Brandon Brotherton, an inmate in federal prison in California, filed a petition for a writ of mandamus against respondent, the Clerk of the Huron County Court of Common Pleas in this court on December 28, 2015, in which he asked this court to order respondent to accept and file an “affidavit of indigency and complaint for

monetary and injunctive relief.” In a memorandum in support, relator stated that he attempted to file his affidavit and complaint in the trial court on December 2, 2015, however, respondent returned the documents to him, along with a letter stating that they would not be filed due to “venue/jurisdiction” issues.

{¶ 2} On January 22, 2016, this court issued an alternative writ, in which we ordered the respondent to either “do the act requested by relator in the petition or show cause why they are not required to do so * * *” within 14 days of the date that respondent was served with the alternative writ. On February 5, 2016, respondent filed a “Notice of Respondent’s Willingness to File Relator’s Affidavit and Complaint.” In the notice, respondent states that the documents were returned to relator because it was initially unclear to respondent that relator actually intended to file his affidavit and complaint in the Huron County Court of Common Pleas. However, respondent states that, upon further review, it is willing “to file Relator’s affidavit and complaint for monetary and injunctive relief immediately upon receipt.” (Emphasis sic.)

{¶ 3} On consideration, this court finds that relator is entitled to the relief requested in his petition. Accordingly, we hereby issue a writ of mandamus and order respondent to file relator’s affidavit and complaint immediately upon receipt.

{¶ 4} Petition granted. Costs assessed to respondent.

{¶ 5} To the clerk: Manner of service.

{¶ 6} The sheriff of Huron County shall immediately serve, upon the respondent by personal service, a copy of this alternative writ pursuant to R.C. 2731.08, and shall verify, by affidavit, the time, place, and manner of service and file such verification upon completion of the service.

{¶ 7} The clerk is further directed to immediately serve **upon all other parties** a copy of this alternative writ in a manner prescribed by Civ.R. 5(B).

{¶ 8} It is so ordered.

Petition granted.

Mark L. Pietrykowski, J.

Thomas J. Osowik, J.

Stephen A. Yarbrough, J.
CONCUR.

JUDGE

JUDGE

JUDGE

<p>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.</p>
