

[Cite as *State ex rel. Tierney v. Jamieson*, 2001-Ohio-4148.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 80302

STATE, EX REL. MICHAEL	:	
TIERNEY	:	
	:	PETITION FOR WRIT OF
Relator	:	
	:	MANDAMUS
vs.	:	
	:	
DANIEL JAMIESON, ATTORNEY	:	
	:	
Respondent	:	
	:	

JUDGMENT	:	WRIT DISMISSED.
----------	---	-----------------

DATE OF JOURNALIZATION	:	OCTOBER 25, 2001
------------------------	---	------------------

APPEARANCES:

For relator:	MICHAEL C. TIERNEY, <i>pro se</i> Belmont Correctional Institution 68518 Bannock Road, RT 331 P.O. Box 540 St. Clairsville, OH 43950-0540
--------------	---

For respondent:	DANIEL J. JAMIESON, Esq. 75 Public Square, Suite 1200 Cleveland, Ohio 44113
-----------------	---

[Cite as *State ex rel. Tierney v. Jamieson*, 2001-Ohio-4148.]
SWEENEY, JAMES D., P.J.

Relator is the appellant in *State v. Tierney*, Cuyahoga App. No. 78847, which is pending before this court. Respondent, an attorney in private practice, represents relator in Case No. 78847. Relator requests that this court issue a writ of mandamus compelling respondent to provide relator copies of the transcript and briefs in Case No. 78847.

In *State ex rel. Rodgers v. Riley* (Aug. 9, 2001), Cuyahoga App. No. 79977, unreported, this court dismissed an action in mandamus in which the relator requested that this court compel his appointed lawyer to provide Rodgers with various documents pertaining to the relator's criminal case.

Mandamus will not lie to enforce a private right against a private person as Rodgers is attempting here. n1 We also find that Rodgers has failed to comply with R.C. 2969.25 which requires that he attach an affidavit to his petition that describes each civil action or appeal of a civil action filed by him in the previous five years. Such failure constitutes sufficient grounds for dismissal of his petition.

Furthermore, he has failed to comply with Loc.App.R. 45(B) (1) (a) which requires that original actions be supported by an affidavit specifying the details of the claim. n2

n1 *State ex rel. Longacre v. Penton Publishing Co.* (1997), 77 Ohio St. 3d 266, 673 N.E.2d 1297; *State ex rel. Russell v. Duncan* (1992), 64 Ohio St. 3d 538, 597 N.E.2d 142.

n2 *State ex rel. Zanders v. Ohio Parole Board* (1998), 82 Ohio St. 3d 421, 696 N.E.2d 594; *State ex rel. Alford v. Winters* (1997), 80 Ohio St. 3d 285, 685 N.E.2d 1242.

Riley, supra, at 1-2.

Likewise, in this action, relator is attempting to enforce a private right against a private person. Similarly, relator has not complied with either R.C. 2969.25 or Loc.App.R. 45(B) (1) (a).

Accordingly, we dismiss this action *sua sponte*. See *State ex rel. Thompson v. Spon* (1998), 83 Ohio St.3d 551, 553, 700 N.E.2d 1281. Relator to pay costs. The clerk is directed to serve upon the parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

Writ dismissed.

KENNETH A. ROCCO, J., and

PATRICIA A. BLACKMON, J., CONCUR.

JAMES D. SWEENEY
PRESIDING JUDGE