

[Cite as *State ex rel. Zayid v. Cleary*, 2001-Ohio-4154.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 80076

STATE OF OHIO, EX REL.	:	PETITION FOR WRIT
AQUIL ZAYID	:	OF MANDAMUS
	:	
RELATOR	:	
	:	
-vs-	:	<i>JOURNAL ENTRY AND OPINION</i>
	:	
PATRICIA CLEARY, JUDGE	:	
COURT OF COMMON PLEAS	:	
	:	
RESPONDENT	:	

DATE OF JOURNALIZATION: SEPTEMBER 20, 2001

JUDGMENT: WRIT DENIED.

APPEARANCES:

FOR RELATOR:

AQUIL ZAYID, *PRO SE*  
No. 385-736  
ManCI, P.O. Box 788  
Mansfield, Ohio 44901

FOR RESPONDENT:

WILLIAM D. MASON, ESQ.  
CUYAHOGA COUNTY PROSECUTOR  
BY: SHERRY F. MCCREARY, ESQ.  
ASST. COUNTY PROSECUTOR  
1200 Ontario Street  
Cleveland, Ohio 44113

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ANN DYKE, J.:

On August 10, 2001, the relator, Aquil Zayid, commenced this mandamus action against the respondent, Judge Patricia Cleary, to compel the judge to rule on her post conviction relief motion and to issue findings of fact and conclusions of law in *State v. Zayid*, Cuyahoga County Court of Common Pleas Case No. CR-383316. On September 7, 2001, the respondent, through the Cuyahoga County Prosecutor, filed an answer and a motion for summary judgment.

Attached to the respondent's motion for summary judgment is a copy of the court's ruling and findings of fact and conclusions of law pertaining to the motion. Thus, the relator's request for a writ of mandamus is moot. *State ex rel. Gantt v. Coleman* (1983), 6 Ohio St.3d 5, 450 N.E.2d 1163; *State ex rel. Jerningham v. Cuyahoga County Court of Common Pleas* (1996), 74 Ohio St.3d 278, 658 N.E.2d 723.

Furthermore, we find that relator has failed to comply with R.C. 2969.25 which mandates that he attach an affidavit to his complaint that describes each civil action or appeal of a civil action filed in the previous five years. The failure to provide such affidavit constitutes sufficient grounds for dismissal of the relator's complaint for a writ of mandamus. *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.

Accordingly, we grant the respondent's motion for summary judgment. Relator to bear costs. It is further ordered that the clerk shall serve upon all parties notice of this judgment and date of entry pursuant to Civ.R. 58(B).

Writ denied.

DIANE KARPINSKI, A.J.            AND

KENNETH A. ROCCO, J.,    CONCUR.

PRESIDING JUDGE  
ANN DYKE