

[Cite as *State ex rel. Owens v. Court of Common Pleas* , 2001-Ohio-4161.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 79926

STATE OF OHIO, EX REL.	:	
CLEOPHUS OWENS	:	PETITION FOR WRIT
	:	OF MANDAMUS
RELATOR	:	
	:	
-vs-	:	<i>JOURNAL ENTRY AND OPINION</i>
	:	
COURT OF COMMON PLEAS	:	
	:	
RESPONDENT	:	

DATE OF JOURNALIZATION: SEPTEMBER 27, 2001

JUDGMENT: WRIT DENIED

APPEARANCES:

FOR RELATOR:

CLEOPHUS OWENS, *PRO SE*
No. 389398
P.O. Box 8107
Mansfield, Ohio 44901

FOR RESPONDENT:

WILLIAM D. MASON, ESQ.
CUYAHOGA COUNTY PROSECUTOR
BY: DIANE SMILANICK, ESQ.
ASST. COUNTY PROSECUTOR
1200 Ontario Street
Cleveland, Ohio 44113

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ANN DYKE, J.:

On July 9, 2001, the relator, Cleophus Owens, commenced this mandamus action against the respondent, Judge Mary Boyle, to compel the judge to rule on relator's motion for correction of sentences filed in *State v. Owens*, Cuyahoga County Court of Common Pleas Case Nos. CR-160522, CR-169326 and CR-169009. On August 29, 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 rulings pertaining to the motion for correction of sentences in the above-listed cases which were filed on August 29, 2001. 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. Respondent 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

ANNE L. KILBANE, J., CONCUR.

ANN DYKE
JUDGE