

[Cite as *State ex rel. Pinkava v. Gaul*, 2001-Ohio-4165.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 79883

STATE OF OHIO ex rel.	:	
ROBERT PINKAVA	:	
	:	
Relator	:	JOURNAL ENTRY
	:	and
vs.	:	OPINION
	:	
DANIEL GAUL	:	
COURT OF COMMON PLEAS	:	
CUYAHOGA COUNTY	:	
	:	
Respondent	:	

CHARACTER OF PROCEEDING	:	WRIT OF PROCEDENDO
	:	(Motion No. 30536)

JUDGMENT	:	DISMISSED.
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DATE OF JOURNALIZATION	:	AUGUST 27, 2001
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APPEARANCES:

For relator	:	ROBERT PINKAVA, <i>pro se</i>
		#A155-829
		Post Office Box 511
		Columbus, Ohio 43216

For respondent	:	WILLIAM D. MASON
		Cuyahoga County Prosecutor
		CHARLES E. HANNAN, Assistant
		Justice Center, Courts Tower
		1200 Ontario Street, 8 th Floor
		Cleveland, Ohio 44113

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KENNETH A. ROCCO, J.:

Relator requests that this court issue a writ of procedendo compelling respondent judge to issue a ruling with respect to the complaint in mandamus filed by relator on August 29, 2000 in *Pinkava v. Meridia Euclid Hosp.*, Cuyahoga County Court of Common Pleas Case No. CV-416469. A copy of the complaint in Case No. CV-416469 is attached to the complaint in this original action. In Case No. CV-416469, relator seeks a writ of mandamus compelling the respondent, Meridia Euclid Hospital, to produce copies of medical records that are related to the underlying case of *State v. Pinkava*, Cuyahoga County Court of Common Pleas Case No. CR-44237.

R.C. 2969.25(A) provides, in part:

At the time that an inmate commences a civil action or appeal against a government entity or employee, the inmate 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.

Failure to comply with the requirements of R.C. 2969.25 is grounds for dismissal of an original action.

In 1998, Jefferson [an inmate] filed a complaint in the Court of Appeals for Franklin County for a writ of prohibition to prevent the [the Ohio Adult Parole Authority, "APA"] from taking any further actions relating to his 1975 convictions, and to further prevent the APA from conducting a parole eligibility hearing in the year 2000 on his aggravated

murder conviction. The APA filed a motion to dismiss on the ground that Jefferson's complaint did not comply with the R.C. 2969.25 *in forma pauperis* filing requirements for inmates commencing civil actions or appeals against government entities or employees. The court of appeals granted the APA's motion based on Jefferson's failure to comply with R.C. 2969.25(A) and (C), and dismissed the complaint.

State ex rel. Jefferson v. Ohio Adult Parole Auth. (1999), 86 Ohio St.3d 304, 305, 714 N.E.2d 926, 927. R.C. 2969.25(C) sets forth the requirements for an affidavit of indigency.

In this action, relator has filed a motion to proceed *in forma pauperis*, attached to which is relator's "R.C. §2969.25(A) Affidavit of Civil Actions or Appeals." In the affidavit, applicant identifies Case No. CV-416469 as the only civil action or appeal that he has filed in the previous five years. Yet, relator has filed two original actions in this court alone: *State ex rel. Pinkava v. Meyers* [the medical records manager at Meridia Euclid Hospital], Case No. 75054, in 1998; and *Pinkava v. Euclid Meridia Hospital*, Case No. 76891, in 1999. In *State ex rel. Pinkava v. Meyers* (Oct. 22, 1998), Cuyahoga App. No. 75054, unreported, and *Pinkava v. Euclid Meridia Hosp.* (Nov. 4, 1999), Cuyahoga App. No. 76891, unreported, relator requested—and this court denied—the same relief relator now requests in Case No. CV-416469.

In light of *Jefferson*, relator's failure to comply with R.C. 2969.25 is a sufficient basis for denying relief in this action.

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
JUDGE

TIMOTHY E. McMONAGLE, P.J. CONCURS

FRANK D. CELEBREZZE, JR., J. CONCURS