

[Cite as *State ex rel. Robinson v. Cuyahoga Cty. Prosecutor's Office*, 2003-Ohio-2655.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 82517

STATE OF OHIO EX REL.,	:	
SHELDON ROBINSON,	:	
	:	
Relator	:	PETITION FOR WRIT OF
	:	MANDAMUS
	:	
-vs-	:	JOURNAL ENTRY AND OPINION
	:	
CUYAHOGA COUNTY PROSECUTOR'S	:	MOTION NO. 346848
OFFICE,	:	
	:	
Respondent	:	

DATE OF JOURNALIZATION: MAY 20, 2003

JUDGMENT: DISMISSED.

APPEARANCES:

For Relator: Sheldon Robinson, Pro Se  
Inmate No. 82831  
Cuyahoga County Correction Center  
P.O. Box 5600  
Cleveland, Ohio 44101-0600

For Respondent: William D. Mason, Esq.  
Cuyahoga County Prosecutor  
BY: L. Christopher Frey, Esq.  
Assistant County Prosecutor  
The Justice Center – 8<sup>th</sup> Floor  
1200 Ontario Street  
Cleveland, Ohio 44113

MICHAEL J. CORRIGAN, J.:

{¶1} Sheldon Robinson, the relator, has filed a complaint for a writ of mandamus. Robinson seeks an order from this court which requires the Cuyahoga County Prosecutor's Office, the respondent, to investigate the alleged unlawful conduct of John Mitchell and Mike Stuart. Robinson argues that both John Mitchell and Mike Stuart were involved in an "unlawful citizen's arrest" which culminated in the indictment of Robinson for the offenses of robbery and possessing criminal tools. The Cuyahoga County Prosecutor's Office has filed a motion to dismiss which we grant for the following reasons.

{¶2} The criteria for issuing a writ of mandamus are well-established:

{¶3} "In order to be entitled to a writ of mandamus, relator must show (1) that he has a clear legal right to the relief prayed or, (2) that respondents are under a clear legal duty to perform the acts, and (3) that relator has no plain and adequate remedy in the ordinary course of the law. *State ex rel. National City Bank v. Bd. of Education* (1977), 52 Ohio St.2d 81, 369 N.E.2d 1200." *State ex rel. Harris v. Rhodes* (1978), 54 Ohio St.2d 41, 42, 374 N.E.2d 641.

{¶4} In the case sub judice, Robinson has failed to demonstrate that he possesses a clear legal right to have the conduct of John Mitchell and Mike Stuart investigated or that the Cuyahoga County Prosecutor's Office possesses a clear legal duty to investigate the conduct of John Mitchell and Mike Stuart vis-a-vis the "citizen's arrest" of Robinson. In addition, a prosecuting attorney will not be compelled to investigate or prosecute a complaint except where the failure to investigate or prosecute constitutes an abuse of discretion. *Mootispaw v. Eckstein* (1996), 76 Ohio St.3d 383, 667 N.E.2d 1197; *State ex rel. Master v. Cleveland* (1996), 75 Ohio St.3d 23, 661 N.E.2d 180. Robinson has failed to

demonstrate that the Cuyahoga County Prosecutor’s Office has abused its discretion by failing to investigate or prosecute a complaint against John Mitchell and Mike Stuart. *Ohio Assn. of Pub. School Emp. Chapter 643, AFSCME/AFL-CIO v. Dayton City School Dist. Bd. of Edn.* (1991), 59 Ohio St.3d 159, 572 N.E.2d 80.

{¶5} Accordingly, the motion to dismiss is granted. Robinson to pay costs. The Clerk of the Eighth District Court of Appeals is ordered to serve notice of this judgment and its date of entry upon all parties as required by Civ.R. 58(B).

Complaint dismissed.

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MICHAEL J. CORRIGAN  
JUDGE

KENNETH A. ROCCO, A.J., and

FRANK D. CELEBREZZE, JR., J., CONCUR.

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