

[Cite as *State v. Taylor*, 2004-Ohio-6094.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

No. 85190

STATE OF OHIO, EX REL.	:	ORIGINAL ACTION
	:	
	:	JOURNAL ENTRY
Relator	:	AND
	:	OPINION
vs.	:	
	:	
JARMAINE TAYLOR	:	
	:	
Respondent	:	

DATE OF JOURNALIZATION: NOVEMBER 16, 2004

CHARACTER OF PROCEEDINGS: WRIT OF MANDAMUS

JUDGMENT: Writ Denied.
Motion No. 364014
Order No. 365551

APPEARANCES:

For Relator:	WILLIAM D. MASON Cuyahoga County Prosecutor BY: MATTHEW E. MEYER Assistant County Prosecutor Justice Center - 9 th Floor 1200 Ontario Street Cleveland, Ohio 44113
For Respondent:	JARMAINE TAYLOR, pro se Inmate No. 461-895 North Coast Correctional Facility 2000 South Avon Belden Road Grafton, Ohio 44044
Judge Ann Dyke:	

{¶ 1} Relator, Jarmaine Taylor, avers that he is the defendant in *State v. Taylor*, Cuyahoga County Court of Common Pleas Case No. CR-373240. Taylor requests that this court compel the court of common pleas to rule on the motion for judicial release which he filed on March 26, 2004.

{¶ 2} Respondent has filed a motion for summary judgment attached to which is a copy of a journal entry issued by respondent and received for filing by the clerk on September 16, 2004 in which the court of common pleas denied Taylor's motion for judicial release. Relator has not opposed the motion. Respondent argues that this action in mandamus is, therefore, moot. We agree.

{¶ 3} The complaint also manifests several defects.

{¶ 4} **"Moreover, the petition itself is defective because it is improperly captioned. R.C. 2731.04 requires that an application for a writ of mandamus must be by petition, in the name of the state on the relation of the person applying. This failure to properly caption a mandamus action is sufficient grounds for denying the writ and dismissing the petition. *Maloney v. Court of Common Pleas of Allen County* (1962), 173 Ohio St. 226, 181 N.E.2d 270. [Relator] Morton also failed to support his complaint with an affidavit specifying the details of the claim as required by Local Rule 45(B)(1)(a). *State ex rel. Wilson v. Calabrese* (Jan. 18, 1996), Cuyahoga App. No. 70077, unreported and *State ex rel. Smith v. McMonagle* (July 17, 1996), Cuyahoga App. No. 70899, unreported."**

{¶ 5} *State ex rel. Morton v. Pokorny* (Mar. 1, 2001), Cuyahoga App. No. 79187, at 3. The complaint in this action does not purport to be on relation of relator. Instead, the caption reads "State ex rel. v. Jarmaine Taylor." Likewise, there is no affidavit specifying the details of the claim.

{¶ 6} **"* * * Additionally, relator"**

{¶ 7} **"did not file an R.C. 2969.25(A) affidavit describing each civil action or appeal of a civil action he had filed in the previous five years in any state or federal court ***."**

{¶ 8} **"State ex rel. Hunter v. Cuyahoga Cty. Court of Common Pleas (2000), 88 Ohio St.3d 176, 177, 724 N.E.2d 420, 421. As a consequence, we deny relator's claim of indigency and order him to pay costs. *Id.* at 420."**

{¶ 9} *State ex rel. Bristow v. Sidoti* (Dec. 1, 2000), Cuyahoga App. No. 78708, at 3-4. Likewise, in this action, relator has failed to support his complaint with the affidavit required by R.C. 2969.25(A). As a consequence, we order relator to pay costs.

{¶ 10} Relator “also failed to include the address of the parties in the caption of the complaint as required by Civil Rule 10(A). This may also be grounds for dismissing the action. *State ex rel. Sherrills v. State* (2001), 91 Ohio St. 3d 133, 742 N.E.2d 651.” *State ex rel. Hall v. Calabrese* (Aug. 16, 2001), Cuyahoga App. No. 79810, at 2.

{¶ 11} Accordingly, respondent's motion for summary judgment is granted. 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 denied.

ANN DYKE
JUDGE

MICHAEL J. CORRIGAN, A.J., CONCURS

KENNETH A. ROCCO, J., CONCURS