

[Cite as *State v. Nero*, 2004-Ohio-6845.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

No. 85599

STATE OF OHIO	:	ORIGINAL ACTION
	:	
	:	JOURNAL ENTRY
Relator	:	AND
	:	OPINION
vs.	:	
	:	
LEROY NERO, JR.	:	
	:	
Respondent	:	

DATE OF JOURNALIZATION: DECEMBER 10, 2004

CHARACTER OF PROCEEDINGS: WRIT OF MANDAMUS

JUDGMENT: Writ Dismissed.
Order No. 366522

APPEARANCES:

For Relator: LEROY NERO, pro se
Inmate No. 167-986
Ross Correctional Institution
P.O. Box 7010
Chillicothe, Ohio 45601

For Respondent: WILLIAM D. MASON
Cuyahoga County Prosecutor
Justice Center - 9th Floor
1200 Ontario Street
Cleveland, Ohio 44113

SANFORD E. WATSON, II
Safety Director
City of Cleveland
601 Lakeside Avenue
Cleveland, Ohio 44114

JAMES J. SWEENEY, J.:

{¶ 1} November 26, 2004, Relator, Leroy Nero, Jr., filed a complaint in mandamus with the office of the clerk of courts for Cuyahoga County.

{¶ 2} Nero clearly captioned the complaint in the court of common pleas. The caption included "Case No. 176903," in which "Leroy D. Nero" is a defendant. Due to a clerical error, the clerk filed the complaint in mandamus as an original action in this court.

{¶ 3} In light of Nero's clear intent to prosecute an action in mandamus in the court of common pleas, we dismiss this action sua sponte. The clerk is instructed to file Nero's complaint in *State v. Nero*, Cuyahoga County Court of Common Pleas Case No. CR-176903.

Each party to bear its own 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.

JAMES J. SWEENEY
JUDGE

ANN DYKE, P.J., CONCURS

ANTHONY O. CALABRESE, JR., J., CONCURS