

[Cite as *Taylor v. Russo*, 2005-Ohio-185.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

No. 85554

STATE OF OHIO, EX REL.,	:	ORIGINAL ACTION
JAMES A. TAYLOR	:	
	:	JOURNAL ENTRY
Relator	:	AND
	:	OPINION
vs.	:	
	:	
HON. MICHAEL J. RUSSO	:	
	:	
Respondent	:	

DATE OF JOURNALIZATION: JANUARY 14, 2005

CHARACTER OF PROCEEDINGS: WRIT OF MANDAMUS

JUDGMENT: Writ Dismissed.
Motion No. 367509
Order No. 367654

APPEARANCES:

For Relator: JAMES A. TAYLOR, pro se
Inmate No. 471-447
Marion Correctional Inst.
P.O. Box 57
Marion, Ohio 43301-0057

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

Judge Michael J. Corrigan:

{¶ 1} On November 17, 2004, relator, James A. Taylor, commenced this mandamus action against the respondent, Judge Michael J. Russo, to compel him to rule on his motion for jail-time credit in *State v. Taylor*, Cuyahoga County Court of Common Pleas Case No. CR-430580. On January 4, 2005, the respondent, through the Cuyahoga County Prosecutor, filed a motion for summary judgment.

{¶ 2} Attached to the respondent's motion for summary judgment is a copy of the court's journal entries which grant Taylor an additional thirty-five days of jail time credit for a total jail time credit of eighty-five days. Thus, Taylor'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.

{¶ 3} 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*, 82 Ohio St.3d 421, 1998-Ohio-218, 696 N.E.2d 594; *State ex rel. Alford v. Winters*, 80 Ohio St.3d 285, 1997-Ohio-117, 685 N.E.2d 1242.

{¶ 4} Accordingly, we grant the respondent's motion for summary judgment. Relator 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 dismissed.

MICHAEL J. CORRIGAN
JUDGE

ANN DYKE, P.J., CONCURS

KENNETH A. ROCCO, J., CONCURS