

[Cite as *State ex. rel. Stanley v. Jones*, 2005-Ohio-500.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

No. 85810

STATE OF OHIO, EX REL.:	:	ORIGINAL ACTION
EDWARD STANLEY	:	
	:	JOURNAL ENTRY
Relator	:	AND
	:	OPINION
vs.	:	
	:	
JUDGE PEGGY FOLEY JONES	:	
	:	
Respondent	:	

DATE OF JOURNALIZATION: FEBRUARY 9, 2005

CHARACTER OF PROCEEDINGS: WRIT OF MANDAMUS

JUDGMENT: Writ Denied.
Motion No. 368478
Order No. 368498

APPEARANCES:

For Relator: EDWARD STANLEY, pro se
Inmate No. 442-753
Mansfield Correctional Inst.
P.O. Box 788
Mansfield, Ohio 44901

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

Judge Mary Eileen Kilbane:

{¶ 1} On January 13, 2005, relator, Edward Stanley, commenced this mandamus action against respondent, Judge Peggy Foley Jones, to compel her to issue findings of fact and conclusions of law pertaining to his post-conviction relief petition filed in *State v. Stanley*, Cuyahoga County Court of Common Pleas Case Nos. CR-429283 and CR-428085. On February 2, 2005, 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 findings of fact and conclusions of law denying Stanley's post-conviction petition. Thus, Stanley's petition for a writ of mandamus is moot.¹ *State ex rel. Grant v. Coleman* (1983), 6 Ohio St.3d 5, 450 N.E.2d 1163; *State ex rel. Jerningham v. Cuyahoga Cty. Court of Common Pleas*, 74 Ohio St.3d 278, 1996-Ohio-117, 658 N.E.2d 723.

{¶ 3} We also find that Stanley failed to comply with Loc.App.R. 45(B)(1)(a) which provides that all complaints must contain the specific statements of fact upon which the claim of illegality is based and must be supported by an affidavit from the plaintiff or relator specifying the details of the claim. *State ex rel. Wilson v. Calabrese* (Jan. 18, 1996), Cuyahoga App. No. 70077;

¹ The Findings of Fact and Conclusions of Law incorrectly cites Stanley's indictment for two counts of murder as case number CR-428985. However, a review of the lower docket indicates that the entry was filed in CR-428085, the correct case number.

State ex rel. Smith v. McMonagle (July 17, 1996), Cuyahoga App. No. 70899. Stanley also 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. Respondent 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 denied.

MARY EILEEN KILBANE
JUDGE

SEAN C. GALLAGHER, P.J., CONCURS

ANTHONY O. CALABRESE, J., CONCURS