

[Cite as *State ex rel. Evans v. Judge, Court of Common Pleas, 2005-Ohio-5543.*]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

No. 86325

STATE OF OHIO, EX REL.,	:	ORIGINAL ACTION
JAMES EVANS	:	
	:	JOURNAL ENTRY
Relator	:	AND
	:	OPINION
vs.	:	
	:	
JUDGE COURT OF COMMON PLEAS	:	
	:	
Respondent	:	

DATE OF JOURNALIZATION: OCTOBER 18. 2005

CHARACTER OF PROCEEDINGS: WRIT OF MANDAMUS

JUDGMENT: Writ Denied.
Motion No. 371810
Order No. 376067

APPEARANCES:

For Relator: JAMES EVANS, pro se
Inmate No. 36765-060
P. O. Box 10
PCI Elkton
Lisbon, Ohio 44432

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

JUDGE KENNETH A. ROCCO:

{¶ 1} Relator, James Evans, requests that this court compel respondent judge to issue findings of fact and conclusions of law with respect to the petition for postconviction relief which he filed in *State v. Evans*, Cuyahoga County Court of Common Pleas Case Nos. CR-284234 and 287230 on October 24, 2003.

{¶ 2} Respondent court has filed a motion for summary judgment attached to which is a copy of the findings of fact and conclusions of law which were received for filing by the clerk on May 19, 2005.

Evans has not opposed the motion. Respondent court argues that relator's request for relief in this action in mandamus should be denied because respondent has performed the act requested by relator. We agree.

{¶ 3} There are other grounds for denying relief in this action.

"The petition is also deficient in several aspects. As was the case in [*Griffin v. McFaul*, Cuyahoga App. No. 81658, 2002-Ohio-4929], [petitioner] has failed to: support his complaint with an affidavit specifying the details of the claim as required by Local Rule 45(B)(1)(a); ***; and support his complaint with the affidavit required by R.C. 2969.25(A). Each of these defects is a sufficient ground for dismissal of this action."

Kittrell v. Adult Parole Auth., Cuyahoga App. No. 81744, 2002-Ohio-5574, at ¶2. Similarly, Evans has not complied with these requirements. We also note that, although Evans attaches a "Poverty Affidavit" to his complaint, he has not signed the affidavit and the affidavit is not notarized. See R.C. R.C.

2319.01 through 2319.04. Cf. R.C. 2935.19 (form of affidavit).

{¶ 4} Accordingly, respondent's motion for summary judgment is granted. Respondent 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.

KENNETH A. ROCCO
PRESIDING JUDGE

CHRISTINE T. MCMONAGLE, J., CONCURS

MICHAEL J. CORRIGAN, J., CONCURS