

[Cite as *State ex rel. Wilson v. Sutula*, 2005-Ohio-5682.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

No. 87129

STATE O OHIO, EX. REL.,	:	ORIGINAL ACTION
JESSY WILSON	:	
	:	JOURNAL ENTRY
Relator	:	AND
	:	OPINION
vs.	:	
	:	
JUDGE JOHN D. SUTULA	:	
	:	
Respondent	:	

DATE OF JOURNALIZATION: OCTOBER 26, 2005

CHARACTER OF PROCEEDINGS: WRIT OF MANDAMUS

JUDGMENT: Complaint Dismissed
Motion No. 376930
Order No. 376931

APPEARANCES:

For Relator: JESSY WILSON
9320 Carlon
Cleveland, Ohio 44104

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

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JUDGE KENNETH A. ROCCO:

{¶1} On October 6, 2005, the relator, Jessy Wilson, commenced this mandamus action against Judge John D. Sutula, to compel the judge to rule on a motion for arrest of judgment for lack of subject matter jurisdiction, which Wilson filed on September 28, 2005, in the underlying case, *State of Ohio v. Jessy Wilson*, Cuyahoga County Common Pleas Court Case No. CR-459733. For the following reason, this court dismisses the complaint sua sponte.

{¶2} An inordinate amount of time has not elapsed to warrant mandamus to compel a ruling. Sup.R. 40(A) provides that motions shall be ruled upon within 120 days from the date of filing. Thus, a complaint in mandamus to compel a ruling on a motion which has been pending approximately a week is premature. *State ex rel. Rodgers v. Cuyahoga County Court of Common Pleas* (1992), 83 Ohio App.3d 684, 615 N.E.2d 689 and *State ex rel. Byrd v. Fuerst* (July 12, 1991), Cuyahoga App. No. 61985.

{¶3} Additionally, the relator 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 and *State ex rel. Smith v. McMonagle* (July 17, 1996), Cuyahoga App. No. 70899.

{¶4} Accordingly, the court dismisses the complaint for a writ of mandamus. Costs assessed against the relator. 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).

KENNETH A. ROCCO
JUDGE

DIANE KARPINSKI, P.J., CONCURS

MICHAEL J. CORRIGAN, J., CONCURS