

[Cite as *State ex rel. Bailey v. Mannen*, 2005-Ohio-6236.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

No. 86757

STATE OF OHIO, EX REL.,	:	ORIGINAL ACTION
CHARLES BAILEY	:	
	:	JOURNAL ENTRY
Relator	:	AND
	:	OPINION
vs.	:	
	:	
JUDGE ANN MANNEN, ET AL.	:	
	:	
Respondents	:	

DATE OF JOURNALIZATION: NOVEMBER 18, 2005

CHARACTER OF PROCEEDINGS: WRIT OF MANDAMUS

JUDGMENT: Writ Denied.  
Motion No. 375372  
Order No. 377580

APPEARANCES:

For Relator: CHARLES BAILEY, pro se  
Inmate No. A450-606  
P. O. Box 8107  
Mansfield, Ohio 44901

For Respondents: WILLIAM D. MASON  
Cuyahoga County Prosecutor  
BY: JON W. OEBKER  
Assistant County Prosecutor  
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1200 Ontario Street  
Cleveland, Ohio 44113

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BY: RICHARD CHOLAR, JR.  
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JUDGE MARY EILEEN KILBANE:

{¶ 1} Relator requests that this court compel respondent judge to issue findings of fact and conclusions of law with respect to the petition for postconviction relief filed by relator in *State v. Bailey*, Cuyahoga County Court of Common Pleas Case Nos. CR-424092 and 430159 on October 25, 2004. (By separate entry, this court granted relator's motion to remove respondent attorney general as a party to this action.)

{¶ 2} Respondent has filed a motion for summary judgment attached to which is a copy of the findings of fact and conclusions of law issued by respondent and received for filing by the clerk on August 24, 2005 in Case Nos. CR-424092 and CR-430159. Relator has not opposed the motion. Respondent argues that this action in mandamus is, therefore, moot. We agree.

{¶ 3} Relator has also failed to comply with Loc.App.R. 45(B)(1)(a) which requires that complaints in original actions be supported by an affidavit from the plaintiff or relator specifying the details of the claim. *State ex rel. Hightower v. Russo*, Cuyahoga App. No. 82321, 2003-Ohio-3679. In the "Affidavit of Indigency & Verity" accompanying the complaint, Bailey avers "that I have read the contents of the foregoing Writ of Mandamus, and further state that the same is true and correct to the best of my knowledge and or belief \*\*\*." Bailey's averment does not specify

the facts and is not sufficient to satisfy the requirement of Loc.App.R. 45(B)(1)(a) that the affidavit supporting the complaint specify *the details* of the claim. "The absence of facts specifying the details of the claim required by Loc.App.R. 45(B)(1)(a) is a ground for dismissal." *State ex rel. Sansom v. Wilkinson*, Cuyahoga App. No. 80743, 2002-Ohio-1385, at 7.

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

MARY EILEEN KILBANE  
JUDGE

JAMES J. SWEENEY, P.J., CONCURS

KENNETH A. ROCCO, J., CONCURS