

[Cite as *State ex rel. Jerningham v. McCormick*, 2005-Ohio-6968.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

No. 87151

STATE OF OHIO, EX REL.,	:	ORIGINAL ACTION
TOMMIE JERNINGHAN, JR.	:	
	:	JOURNAL ENTRY
Relator	:	AND
	:	OPINION
vs.	:	
	:	
JUDGE TIMOTHY MCCORMICK	:	
	:	
Respondent	:	

DATE OF JOURNALIZATION: DECEMBER 21, 2005

CHARACTER OF PROCEEDINGS: WRIT OF MANDAMUS

JUDGMENT: Complaint Dismissed.
Motion No. 377053
Order No. 378788

APPEARANCES:

For Relator: TOMMIE JERNINGHAN JR., pro se
Inmate No. 491-135
Marion Correctional Institution
P.O. Box 57
Marion, Ohio 43302

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

JUDGE COLLEEN CONWAY COONEY:

{¶1} Tommie Jerningham, Jr. has filed a complaint for a writ of mandamus. He seeks an order from this court which requires Judge Timothy McCormick to render a ruling with regard to a motion for jail-time credit that was filed in the underlying action of *State v. Jerningham*, Cuyahoga County Court of Common Pleas Case No. CR-443513. Judge McCormick has filed a motion to dismiss, which we grant for the following reasons.

{¶2} Initially, we find that Jerningham has failed to comply with R.C. 2969.25, which requires the attachment of an affidavit to the complaint for a writ of mandamus that describes each civil action or appeal filed by Jerningham within the previous five years in any state or federal court. Jerningham's failure to comply with R.C. 2969.25 warrants the dismissal of the 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.

{¶3} In addition, attached to the motion to dismiss is a copy of a judgment entry, journalized on September 7, 2005, which demonstrates that Judge McCormick has issued a ruling on the motion for jail-time credit. Jerningham's request for a writ of mandamus is thus moot. *State ex rel. Gantt v. Coleman* (1983), 6 Ohio St.3d 5, 450 N.E.2d 1163. It must also be noted that any error associated with the calculation of jail-time credit must be addressed through a direct appeal. *State ex rel. Spates v. Sweeney* (Apr. 17, 1997), Cuyahoga App. No. 71986.

{¶4} Accordingly, we grant the motion to dismiss. Costs to Jerningham. It is further

ordered that the Clerk of the Eighth District Court of Appeals serve notice of this judgment upon all parties required by Civ.R. 58(B).

Complaint dismissed.

COLLEEN CONWAY COONEY
JUDGE

ANN DYKE, P.J., CONCURS

CHRISTINE T. MCMONAGLE, J., CONCURS