

[Cite as *State ex rel. Davis v. Court of Common Pleas*, 2006-Ohio-2299.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

No. 87884

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

DATE OF JOURNALIZATION:	MAY 9, 2006
CHARACTER OF PROCEEDINGS:	WRIT OF PROCEDENDO
JUDGMENT:	Writ Denied. Motion No. 383356 Order No. 383870

APPEARANCES:

For Relator:	ROBERT DAVIS, pro se Inmate No. 482-447 Marion Correctional Inst. P.O. Box 57 Marion, Ohio 43301
For Respondent:	WILLIAM D. MASON Cuyahoga County Prosecutor BY: DIANE SMILANICK Assistant County Prosecutor Justice Center - 9 th Floor 1200 Ontario Street

Cleveland, Ohio 44113

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ANN DYKE, A.J.:

{¶ 1} Robert Davis has filed a complaint for a writ of procedendo. Davis argues that Judge Daniel Gaul is required to issue findings of fact and conclusions of law with regard to a petition for post-conviction relief that was filed in the underlying action of *State v. Davis*, Cuyahoga County Court of Common Pleas Case No. CR-447997. Judge Gaul has filed a motion for summary judgment, which we grant for the following reasons.

{¶ 2} Initially, we find that the complaint for a writ of procedendo is procedurally defective, since Davis has failed to comply with the affidavit requirement of R.C. 2969.25. Davis is required to attach to his complaint for a writ of procedendo, an affidavit which describes each civil action or appeal filed within the previous five years in any state or federal court. Davis' failure to comply with R.C. 2969.25 warrants the dismissal of the complaint for a writ of procedendo. *State ex rel. Zanders v. Ohio Parole Bd.*, 82 Ohio St.3d 421, 1998-Ohio-218, 696 N.E.2d 594; *Alford v. Winters*, 80 Ohio St.3d 285, 1997-Ohio-117, 685 N.E.2d 1242.

{¶ 3} Finally, Davis' request for a writ of procedendo is moot. Attached to the motion for summary judgment is a copy of the findings of fact and conclusions of law that was journalized on April 18, 2006, in the underlying action of *State v. Davis*, supra. Davis' request for findings of fact and conclusions of law is thus

moot. *State ex rel. Jerningham v. Cuyahoga Cty. Court of Common Pleas* (1996), 74 Ohio St.3d 278, 658 N.E.2d 723; *State ex rel. Gantt v. Coleman* (1983), 6 Ohio St.3d 5, 450 N.E.2d 1163.

{¶ 4} Accordingly, we grant Judge Gaul's motion for summary judgment. Costs to Davis. It is further ordered that the Clerk of the Eighth District Court of Appeals serve upon all parties notice of this judgment as required by Civ.R. 58(B).

Writ denied.

ANN DYKE
ADMINISTRATIVE JUDGE

MICHAEL J. CORRIGAN, J., CONCURS

PATRICIA A. BLACKMON, J., CONCURS