

[Cite as *State ex rel. Mayes v. Ambrose*, 2006-Ohio-3322.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

No. 88259

STATE OF OHIO, EX REL.,	:	ORIGINAL ACTION
PETER WILLIAM MAYES	:	
	:	JOURNAL ENTRY
Relator	:	AND
	:	OPINION
vs.	:	
	:	
JUDGE DICK AMBROSE	:	
	:	
Respondent	:	

DATE OF JOURNALIZATION: JUNE 27, 2006

CHARACTER OF PROCEEDINGS: WRIT OF PROCEDENDO

JUDGMENT: Complaint Dismissed.
Order No. 88259

APPEARANCES:

For Relator:	PETER W. MAYES, pro se
	Inmate No. 442-575
	Ross Correctional Inst.
	P.O. Box 7010
	Chillicothe, Ohio 45601-7010

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

JUDGE FRANK D. CELEBREZZE, JR.:

{¶ 1} On June 6, 2006, the petitioner, Peter William Mayes, commenced this procedendo action against the respondent, Judge Dick Ambrose, to compel the judge to rule on the following motions in the underlying case, *State of Ohio v. Peter William Mayes*, Cuyahoga County Common Pleas Court Case No. CR-422426: (1) Motion for Modification of Sentence Pursuant to R.C. 2953.21, filed on March 14, 2006; (2) Motion to Strike Plaintiff's Motion for Extension of Time, filed on April 11, 2006; and (3) Motion for Summary Judgment, filed April 28, 2006. For the following reasons, this court dismisses the application for procedendo, sua sponte.

{¶ 2} An inordinate amount of time has not elapsed to warrant procedendo to compel rulings. Sup.R. 40(A) provides that motions shall be ruled upon within 120 days from the date of filing. Thus, a complaint in procedendo to compel rulings on motions which have been pending less than three months 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 petitioner 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 procedendo. 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).

FRANK D. CELEBREZZE, JR.
PRESIDING JUDGE

ANTHONY O. CALABRESE, JR., J., CONCURS

MICHAEL J. CORRIGAN, J., CONCURS