

[Cite as *Alexander v. McMonagle*, 2008-Ohio-1713.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 90930

DARNELL ALEXANDER

RELATOR

VS.

**COURT OF COMMON PLEAS,
JUDGE RICHARD MCMONAGLE**

RESPONDENT

**JUDGMENT:
COMPLAINT DISMISSED**

WRIT OF MANDAMUS
MOTION NO. 405823
ORDER NO. 406732

RELEASE DATE: April 9, 2008

FOR RELATOR:

Darnell Alexander, pro se
Inmate No. 217-367
Correctional Reception Center
P.O. Box 300
Orient, Ohio 43146

ATTORNEYS FOR RESPONDENT:

William D. Mason
Cuyahoga County Prosecutor
By: Diane Smilanick
Asst. County Prosecutor
8th Floor Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

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FRANK D. CELEBREZZE., JR., J.:

{¶ 1} Darnell Alexander, the relator, has filed a complaint for a writ of mandamus. Alexander seeks an order from this court which requires Judge Richard J. McMonagle, the respondent, to issue findings of fact and conclusions of law with regard to a petition for post-conviction relief, which was filed and denied in *State v. Alexander*, Cuyahoga County Court of Common Pleas Case No. 199186. Judge McMonagle has filed a motion to dismiss, which we grant for reasons other than those raised and argued within the motion to dismiss.

{¶ 2} Initially, we find that Alexander's complaint for a writ of mandamus is defective since it is improperly captioned. A complaint for a writ of mandamus must be brought in the name of the state, on relation of the person applying. The failure of Alexander to properly caption his complaint for a writ of mandamus warrants dismissal. R.C. 2731.04; *Blankenship v. Blackwell*, 103 Ohio St.3d 567, 2004-Ohio-5596, 817 N.E.2d 382; *Gannon v. Gallagher* (1945) 145 Ohio St. 170; 60 N.E.2d 666; *Dunning v. Cleary* (Jan. 11, 2001), Cuyahoga App. No. 78763.

{¶ 3} Alexander has also 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 within the previous five years in any state or federal court. Alexander's failure to comply with R.C. 2969.25 requires the dismissal of his complaint for a writ of mandamus. *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.

{¶ 4} Finally, Alexander has failed to comply Loc.App.R. 45(B)(1)(a), which mandates that the complaint for a writ of mandamus be supported by a sworn affidavit that specifies the details of his claim. The failure of Alexander to comply with the supporting affidavit requirement of Loc.App.R. 45(B)(1)(a) requires the dismissal of his complaint for a writ of mandamus. *State ex rel. Smith v. McMonagle* (July 17, 1996), Cuyahoga App. No. 70899; *State ex rel. Wilson v. Calabrese* (Jan. 18, 1996), Cuyahoga App. No. 70077.

{¶ 5} Accordingly, we dismiss Alexander’s complaint for a writ of mandamus based upon the aforesaid procedural defects. This dismissal is entered without addressing the merits of Alexander’s complaint for a writ of mandamus. Costs to Alexander. It is further ordered that the Clerk of the Eighth District Court of Appeals serve notice of this judgment upon all parties as required by Civ.R. 58(B).

Complaint dismissed.

FRANK D. CELEBREZZE, JR., J.

JAMES J. SWEENEY, A.J., and
SEAN C. GALLAGHER, J., CONCUR