

[Cite as *State ex rel. Santos v. McDonnell*, 2008-Ohio-214.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
**No. 90659**

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**STATE OF OHIO, EX REL.,  
OLYN SANTOS**

RELATOR

VS.

**NANCY R. MCDONNELL, JUDGE**

RESPONDENT

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**JUDGMENT:  
WRIT DENIED**

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WRIT OF MANDAMUS  
MOTION NO. 403501  
ORDER NO. 404768

**RELEASE DATE:** January 22, 2008

**FOR RELATOR:**

Olyn M. Santos, pro se  
Inmate #483-239  
Mansfield Correctional Inst.  
P.o. Box 788  
Mansfield, Oh 44901

**ATTORNEY FOR RESPONDENT:**

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

[Cite as *State ex rel. Santos v. McDonnell*, 2008-Ohio-214.]  
FRANK D. CELEBREZZE, JR., J.:

{¶ 1} Relator, Olyn Santos, requests that this court compel respondent judge to rule on the “motion to vacate and or modify sentence” filed by Santos in *State v. Santos*, Cuyahoga County Court of Common Pleas Case No. CR-455242 on March 28, 2007.

{¶ 2} Respondent has filed a motion for summary judgment attached to which is a copy of a journal entry issued by respondent and received for filing by the clerk on May 24, 2007 in which respondent denied the “motion to vacate and or modify sentence.” Relator has not opposed the motion for summary judgment. As a consequence, this action in mandamus is moot.

{¶ 3} Santos’s complaint and supporting documentation also are defective in ways that require dismissal. He has not included the addresses of the parties in the caption as required by Civ.R. 10(A). *State ex rel. Hall v. Calabrese* (Aug. 16, 2001), Cuyahoga App. No. 79810, at 2. Also, he has failed to include a certified copy of the prison cashier’s statement of the balance in his inmate account as required by R.C. 2969.25(C). *State ex rel. Bristow v. Sidoti* (Dec. 1, 2000), Cuyahoga App. No. 78708, at 3-4. Likewise, in this action, we deny relator’s claim of indigency and order him to pay costs. Additionally, “[t]he failure to comply with R.C. 2969.25 warrants dismissal of the complaint for a writ of mandamus. *State ex rel. Zanders v. Ohio Parole Board* (1998), 82 Ohio St.3d 421, 696 N.E.2d 594 and *State ex rel.*

*Alford v. Winters* (1997), 80 Ohio St.3d 285, 685 N.E.2d 1242.” *State ex rel. Hite v. State*, Cuyahoga App. No. 79734, 2002-Ohio-807, at 6.

{¶ 4} We also note that the “Verification of the Facts” merely recites that “all the facts in the aforementioned complaint are true and accurate to the best of my knowledge.” Santos’s use of this conclusory statement is not sufficient to comply with the Loc.App.R. 45(B)(1) requirement that the affidavit must specify the details of the claim. *Turner v. Russo*, Cuyahoga App. No. 87852, 2006-Ohio-4490, at ¶8.

{¶ 5} Accordingly, respondent's motion for summary judgment is granted. Relator 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.

FRANK D. CELEBREZZE, JR.,  
PRESIDING JUDGE

KENNETH A. ROCCO, J., and  
MELODY J. STEWART, J., CONCUR