

[Cite as *Smith v. Synenberg*, 2008-Ohio-2357.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 91143

DARNELL R. SMITH

RELATOR

VS.

JUDGE JOAN SYNENBERG

RESPONDENT

**JUDGMENT:
WRIT DENIED**

WRIT OF PROCEDENDO
MOTION NO. 407629
ORDER NO. 408648

RELEASE DATE: May 13, 2008

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FOR RELATOR:

Darnell R. Smith, pro se
Inmate No. 463-783
Lake Erie Correctional Inst.
P.O. Box 8000
Conneaut, Ohio 44030

ATTORNEYS FOR RESPONDENT:

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

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ANN DYKE, J.:

{¶ 1} On March 12, 2008, the relator, Darnell R. Smith, commenced this procedendo action against the respondent, Judge Joan Synenberg, to compel the judge to issue findings of fact and conclusions of law for a postconviction relief petition, which Smith filed on February 10, 2006, in the underlying cases, *State of Ohio v. Darnell R. Smith*, Cuyahoga County Common Pleas Court Case Nos. CR-434529, 437512, and 443109. On April 7, 2008, the respondent, through the Cuyahoga County Prosecutor, moved for summary judgment on the grounds of mootness. Attached to this dispositive motion were the file-stamped April 2, 2008 findings of fact and conclusions of law for the postconviction relief petitions in the underlying cases. Smith never filed a response. The attachment establishes that the respondent has proceeded to judgment on the subject matter and that Smith has received his requested relief, a resolution of his postconviction relief petitions. This matter is moot.

{¶ 2} Additionally, Smith failed to comply with R.C. 2969.25, which requires an affidavit that describes each civil action or appeal filed by the relator within the previous five years in any state or federal court. The relator's failure to comply with R.C. 2969.25 warrants dismissal of the writ complaint. *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.

{¶ 3} Accordingly, this writ action is denied. Costs assessed against 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).

ANN DYKE, JUDGE

MARY EILEEN KILBANE, P.J., and
MELODY J. STEWART, J., CONCUR