

[Cite as *State ex rel. Stadmire v. Cuyahoga Cty. Common Pleas Court*, 2008-Ohio-309.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 90746

**STATE OF OHIO, EX REL.,
RICHARD STADMIRE**

RELATOR

VS.

**COMMON PLEAS COURT
CUYAHOGA COUNTY**

RESPONDENT

**JUDGMENT:
WRIT DENIED**

WRIT OF PROCEDENDO
MOTION NO. 404139
ORDER NO. 405010

RELEASE DATE: January 28, 2008

FOR RELATOR:

Richard L. Stadmire, pro se
Inmate No. 424-953
Toledo Correctional Inst.
2001 East Central Avenue
Toledo, Ohio 43608

ATTORNEYS 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. Stadmire v. Cuyahoga Cty. Common Pleas Court*, 2008-Ohio-309.]
COLLEEN CONWAY COONEY, P.J.:

{¶ 1} On December 4, 2007, the petitioner, Richard Stadmire, commenced this procedendo action against the respondent, the Cuyahoga County Common Pleas Court. He seeks to compel the court to rule on a “Motion to dismiss for lack of subject matter jurisdiction,” which he filed on August 13, 2007, in the underlying case, *State v. Richard Stadmire*, Cuyahoga County Common Pleas Court Case No. CR-410305.

{¶ 2} On December 13, 2007, the respondent, through the Cuyahoga County Prosecutor, moved for summary judgment on the grounds of mootness. Attached to this dispositive motion was a certified copy of a December 14, 2007 journal entry which denied the subject motion. Stadmire never filed a response. The journal entry establishes that the respondent court has proceeded to judgment on the subject motion, and that this application for a writ of procedendo is moot.

{¶ 3} Additionally, Stadmire failed to support his complaint with an affidavit “specifying the details of the claim” as required by Loc.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} He has also 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. Stadmire's failure to comply with R.C. 2969.25 warrants dismissal of the complaint for a writ of procedendo. *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.

{¶ 5} Accordingly, the court denies the writ. Costs assessed against the petitioner. 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).

COLLEEN CONWAY COONEY,
PRESIDING JUDGE

CHRISTINE T. MCMONAGLE, J., and
MARY J. BOYLE, J., CONCUR