

[Cite as *State ex rel. Skaggs v. Gallagher*, 2008-Ohio-3355.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
**No. 91385**

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**STATE OF OHIO, EX REL.,  
HENRY JAMES SKAGGS**

RELATOR

VS.

**HOLLIE GALLAGHER, JUDGE  
COURT OF COMMON PLEAS**

RESPONDENT

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**JUDGMENT:  
COMPLAINT DISMISSED**

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WRIT OF MANDAMUS  
MOTION NO. 409250  
ORDER NO. 410152

**RELEASED AND JOURNALIZED DATE:** June 27, 2008

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**FOR RELATOR:**

Henry J. Skaggs, pro se  
Inmate No. 206-458  
Marion Correctional Inst.  
P.O. Box 57  
Marion, Ohio 43301-0057

**ATTORNEY FOR RESPONDENT:**

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

SEAN C. GALLAGHER, J.:

{¶ 1} Relator, Henry J. Skaggs, requests that this court compel respondent judge to dispose of motions filed in *State v. Skaggs*, Cuyahoga County Court of Common Pleas Case Nos. CR-226051 and 227174 on May 14, 2007. On that date, Skaggs filed a motion for appointment of defense counsel and a “postconviction motion: \*\*\* [seeking] immediate release from prison custody without any post release supervision \*\*\*\*” in each of the underlying cases. Although Skaggs avers that three motions were filed on May 14, 2007, the dockets of the underlying cases reflect that the two motions mentioned above were the only motions filed on that date. Skaggs also refers to a motion filed on July 13, 2007 in each of the underlying cases requesting that the court of common pleas proceed on the May 14 motions without opposition from the state.

{¶ 2} Respondent has filed a motion to dismiss, attached to which are copies of journal entries issued by respondent. Relator has not opposed the motion.

{¶ 3} We have also reviewed the dockets in each of the underlying cases. By entry received for filing by the clerk on June 25, 2007, respondent denied relator’s motion for appointment of defense counsel in each of the underlying cases. By entry received for filing on July 19, 2007 in Case No. CR-226051, respondent denied as moot relator’s request that the May 14, 2007 motions proceed without opposition by the state. (We agree with respondent that the comparable request in Case No. CR-227174 to proceed without opposition by the state is moot.) In the July 19, 2007 entry, respondent also denied relator’s “postconviction motion: \*\*\* [seeking]

immediate release from prison custody without any post release supervision \*\*\*.” By entry received for filing on May 19, 2008 in Case No. CR-227174, respondent denied relator’s “postconviction motion: \*\*\* [seeking] immediate release from prison custody without any post release supervision \*\*\*.”

{¶ 4} Respondent argues that this action in mandamus is, therefore, moot. We agree.

{¶ 5} Skaggs “also failed to include the address of the parties in the caption of the complaint as required by Civil Rule 10 (A). This may also be grounds for dismissing the action. *State ex rel. Sherrills v. State* (2001), 91 Ohio St. 3d 133, 742 N.E.2d 651.” *State ex rel. Hall v. Calabrese* (Aug. 16, 2001), Cuyahoga App. No. 79810, at 2.

{¶ 6} Accordingly, respondent's motion to dismiss 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).

Complaint dismissed.

SEAN C. GALLAGHER,  
PRESIDING JUDGE

ANTHONY O. CALABRESE, JR., J., and  
MARY EILEEN KILBANE, J., CONCUR