

[Cite as *State ex rel. Harris v. Mausser*, 2008-Ohio-4588.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 91630

**STATE OF OHIO, EX REL.,
DWAYNE HARRIS**

RELATOR

VS.

**CYNTHIA MAUSSER, CH.,
OHIO ADULT PAROLE AUTHORITY**

RESPONDENT

**JUDGMENT:
COMPLAINT TRANSFERRED**

WRIT OF MANDAMUS
MOTION NOS. 410016, 410780, 411123, 411683,
412309, 412572, AND 412660
ORDER NO. 412722

RELEASE DATE: September 5, 2008

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FOR RELATOR:

Dwayne Harris, pro se
Inmate No. 211-083
Mansfield Correctional Inst.
P.O. Box 788
Mansfield, Ohio 44901

ATTORNEYS FOR RESPONDENT:

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Ohio Attorney General

By: Melissa A. Montgomery
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Columbus, Ohio 43215-6001

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CHRISTINE T. MCMONAGLE, J.:

{¶ 1} Relator, Dwayne Harris, requests that this court issue a writ of mandamus compelling respondent “Cynthia MAUSSER of the OHIO PAROLE BOARD AUTHORITY to performed [sic] a clear legal duty and administrative duty, in regards to relator Harris request for reconsideration of Parole Board Release consideration decision, pursuant to O.A.P.A. [Adult Parole Authority (“APA”)] policy no. 105-PBD-04, which was filed on APRIL 5, 2008, and the respondent has refused to answer relator request concerning the new and relevant information on his DEFINITE SENTENCE OF AGGRAVATED ASSAULT ***.” Complaint, at 2 (Punctuation and capitalization in original). For the reasons stated below, venue does not lie in this district and we transfer this action to the Court of Appeals for Franklin County, the Tenth Appellate District.

{¶ 2} In *State ex rel. Bobbitt v. Ohio Adult Parole Auth.*, Cuyahoga App. No. 91341, 2008-Ohio-3046, the relator also requested that this court issue a writ of “mandamus against the Ohio Adult Parole Authority, which is located in Columbus, Ohio. Bobbitt's cause of action arose where the Ohio Adult Parole Authority conducts its business and where the alleged wrong occurred. *State ex rel. Davis v. Ghee* (1998), 126 Ohio App.3d 569, 710 N.E.2d 1178. See, also, *State ex rel. Bickerstaff v. Ohio Adult Parole Auth.*, (Sept. 11, 1987), Scioto App. No. 1667, 1987 Ohio App. LEXIS 8810.

{¶ 3} “Improper venue, however, does not mandate dismissal of the complaint for a writ of mandamus. Civ.R. 3(C)(1) warrants transfer of the complaint to the proper forum. *Singleton v. Denny's Inc.* (1987), 36 Ohio App.3d 225, 522 N.E.2d 1097.” Id. at ¶2-3.

{¶ 4} Similarly, relator’s action arose in Columbus Ohio. Accordingly, we transfer the complaint to the Court of Appeals for Franklin County, the Tenth Appellate District. 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 transferred.

CHRISTINE T. MCMONAGLE,
PRESIDING JUDGE

ANN DYKE, J., and
MARY J. BOYLE, J., CONCUR

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