

[Cite as *State ex rel. Harris v. Sheehan*, 2009-Ohio-4196.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 93516

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

RELATOR

VS.

JUDGE BRENDAN J. SHEEHAN

RESPONDENT

**JUDGMENT:
COMPLAINT DISMISSED**

WRIT OF PROCEDENDO
MOTION NO. 424139
ORDER NO. 424620

RELEASE DATE: August 17, 2009

FOR RELATOR

Michael Harris, pro se
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ATTORNEYS FOR RESPONDENT

William D. Mason
Cuyahoga County Prosecutor

BY: James E. Moss
Assistant County Prosecutor
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JAMES J. SWEENEY, J.:

{¶ 1} Michael Harris has filed a complaint for a writ of procedendo. Harris seeks an order from this court, which requires Judge Brendan Sheehan to issue rulings with regard to the following motions as filed in *State v. Harris*, Cuyahoga County Court of Common Pleas Case Nos. CR-518114 and CR-520206: (1) “motion in limine prohibiting prosecutor from referring to specific matters filed (pro-se) 2/11/09”; (2) “motion to disqualify counsel, filed (pro-se) 2/11/09”; (3) motion to subpoena witnesses in behalf of defendant, filed (pro-se) 2/11/09”; (4) “motion to be present at all proceeding filed (pro-se)”; and (5) “motion to compel

discovery filed (pro-se) (2701.02).” Judge Sheehan has filed a motion to dismiss the complaint for a writ of procedendo, which we grant for the following reasons.

{¶ 2} Initially, we find that Harris has failed to comply with R.C. 2969.25, which requires the attachment of an affidavit to the complaint for a writ of mandamus that describes each civil action or appeal filed within the previous five years in any state or federal court. Harris’ failure to comply with R.C. 2969.25 warrants the dismissal of the complaint for a writ of mandamus. *State ex rel. Zanders v. Ohio Parole Bd.*, 82 Ohio St.3d 421, 1998-Ohio-218, 696 N.E.2d 594; *State ex rel. Alford v. Winters*, 80 Ohio St.3d 285, 1997-Ohio-117, 685 N.E.2d 1242. It must also be noted that Harris has failed to comply with Loc.App.R. 45(B)(1)(a), which mandates that his complaint for a writ of mandamus must be supported by an affidavit that specifies the details of the claim. *State ex rel. Smith v. McMonagle* (July 17, 1996), Cuyahoga App. No. 70899; *State ex rel. Calabrese* (Jan. 18, 1996), Cuyahoga App. No. 70077.

{¶ 3} Finally, Harris’ complaint for a writ of procedendo is moot. On April 21, 2009, Harris was convicted and sentenced with regard to the offenses as charged in CR-518114 and CR-520206. Any pending motions, upon disposition of the underlying criminal cases, are “deemed to be denied.” *State v. Whitaker*, Cuyahoga App. No. 83824, 2004-Ohio-5016, ¶ 2. See, also, *State ex rel. The V*

Cos. v. Marshall (1998), 81 Ohio St.3d 467, 1998-Ohio-329, 692 N.E.2d 198;
State v. Perry, Cuyahoga App. No. 89819, 2008-Ohio-2368 at ¶ 35.

{¶ 4} Accordingly, we grant Judge Sheehan’s motion to dismiss. Cost to Harris. It is further ordered that the Clerk of the Eighth District Court of Appeals serve notice of this judgment upon all parties as required by Civ.R. 58(B).

Complaint dismissed.

JAMES J. SWEENEY, JUDGE

KENNETH A. ROCCO, P.J., and
ANN DYKE, J., CONCUR