

[Cite as *State ex rel. Hairston v. Gallagher*, 2009-Ohio-5843.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 94008

**STATE OF OHIO, EX REL.,
ALAFIA HAIRSTON**

RELATOR

VS.

HONORABLE JUDGE EILEEN A. GALLAGHER

RESPONDENT

**JUDGMENT:
WRIT DENIED**

WRIT OF MANDAMUS
MOTION NO. 427370
ORDER NO. 427489

RELEASE DATE: November 4, 2009

FOR RELATOR

Alafia Hairston, pro se
Inmate No. 542-087
Richland Correctional Inst.
P.O. Box 8107
Mansfield, Ohio 44901

ATTORNEYS FOR RESPONDENT

William D. Mason
Cuyahoga County Prosecutor

BY: James E. Moss
Assistant County Prosecutor
8th Floor Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

JUDGE LARRY A. JONES:

{¶ 1} On September 29, 2009, relator Alafia Hairston filed a complaint in mandamus against Judge Eileen A. Gallagher asking this court to order Judge Gallagher to send Hairston a certified copy of Gallagher's August 26, 2009 order in the underlying matter of *State v. Hairston*, Cuyahoga County Court of Common Pleas, Case No. CR-477293, so that Hairston may file an appeal. On October 16, 2009, Judge Gallagher, through the Cuyahoga County Prosecutor, filed a motion for summary judgment. For the following reasons, we grant the motion for summary judgment.

{¶ 2} In order for this court to issue a writ of mandamus, Hairston must establish that he has a clear legal right to the requested relief; that the

respondent has a clear legal duty to perform the requested relief; and there must be no adequate remedy at law. *State ex rel. Manson v. Morris* (1993), 66 Ohio St. 3d 440, 613 N.E.2d 232, citing *State ex rel. Berger v. McMonagle* (1983), 6 Ohio St. 3d 28, 451 N.E.2d 225.

{¶ 3} Attached to the motion for summary judgment is an affidavit signed by Judge Gallagher in which she swears that on October 1, 2009, a certified copy of that journal entry was mailed to the address Hairston used in his mandamus petition. Consequently, Hairston's request for a writ of mandamus is moot. *State ex rel. Gantt v. Coleman* (1983), 6 Ohio St.3d 5, 450 N.E.2d 1163; *State ex rel. Jerningham v. Cuyahoga Cty. Court of Common Pleas* (1996), 74 Ohio St.3d 278, 658 N.E.2d 723.

{¶ 4} Accordingly, we grant the motion for summary judgment. Costs to respondent. It is further ordered that the clerk shall serve upon all parties notice of this judgment and date of entry pursuant to Civ.R. 58(B).

Complaint denied.

LARRY A. JONES, JUDGE

CHRISTINE T. MCMONAGLE, P.J., and
MELODY J. STEWART, J., CONCUR