

[Cite as *State ex rel. Holden v. Sutula*, 2010-Ohio-1875.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
**No. 94484**

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**STATE OF OHIO, EX REL.  
TERRY HOLDEN**

RELATOR

VS.

**JUDGE KATHLEEN SUTULA**

RESPONDENT

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**JUDGMENT:  
WRIT DENIED**

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Writ of Mandamus  
Motion No. 430678  
Order No. 433147

**RELEASE DATE:** April 27, 2010

**FOR RELATOR**

Terry Holden, pro se  
Inmate # 563-863  
Beci P.O. Box 540  
68518 Bannock Road S.R. 331  
St. Clairsville, Ohio 43950

**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

PATRICIA A. BLACKMON, J.:

{¶ 1} Relator, Terry Holden, requests that this court compel respondent judges to dispose of his motions for jail-time credit and grant him jail-time credit in criminal cases assigned to respondents.<sup>1</sup>

{¶ 2} Respondent has filed a motion for summary judgment attached to which is a copy of a journal entry issued by each respondent in each of her

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<sup>1</sup> *State v. Holden*, Cuyahoga County Court of Common Pleas Case Nos. CR-516882 and CR-517150 (both assigned to respondent Judge Kathleen Sutula) and Case No. CR-523508 (assigned to respondent Judge Bridget McCafferty).

respective cases and received for filing by the clerk on January 25, 2010 (Case Nos. CR-516882 and CR-517150) and January 22, 2010 (Case No. CR-523508). Respondents granted relator’s motions and awarded jail-time credit as follows: 4 days, Case No. CR-516882; 5 days, Case No. CR-517150; and 56 days, Case No. CR-523508. Relator has opposed the motion. Respondent argues that this action in mandamus is moot. We agree.

{¶ 3} Holden argues, however, that he was entitled to more days jail-time credit. It is well-established, however, that a trial court discharges its duty by issuing a journal entry specifying the number of days of jail-time credit. “In addition, once [a judge] has specified the a [sic] number of days of jail-time credit, [the relator] possesses or possessed an adequate remedy at law through a direct appeal to this court.”<sup>2</sup> Because respondents have discharged their duty, Holden does not have a clear legal right to the relief requested and he also has or had an adequate remedy by way of an appeal. As a consequence, relief in mandamus is not appropriate.

{¶ 4} Additionally, Holden’s complaint is defective. He has failed to include a certified copy of the prison cashier’s statement of the balance in his

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<sup>2</sup> *State ex rel. Ford v. Gaul*, Cuyahoga App. No. 94501, 2010-Ohio-782, at ¶3 (citations deleted).

inmate account.<sup>3</sup> Likewise, in this action, we deny relator's claim of indigency and order him to pay costs. Additionally, "[t]he failure to comply with R.C. 2969.25 warrants dismissal of the complaint for a writ of mandamus. *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."<sup>4</sup>

{¶ 5} We also note that Holden has failed to support his complaint in mandamus with an affidavit specifying the details of the claim.<sup>5</sup> This defect alone would provide a ground for dismissal.<sup>6</sup>

{¶ 6} Accordingly, respondent's motion for summary judgment 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).

Writ denied.

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<sup>3</sup> See R.C. 2969.25(C); *State ex rel. Bristow v. Sidoti* (Dec. 1, 2000), Cuyahoga App. No. 78708, at 3-4.

<sup>4</sup> *State ex rel. Hite v. State*, Cuyahoga App. No. 79734, 2002-Ohio-807, at 6.

<sup>5</sup> Loc.App.R. 45(B)(1)(a).

<sup>6</sup> See, e.g., *State ex rel. Barksdale v. Sutula*, Cuyahoga App. No. 93861, 2009-Ohio-4885, at ¶7.

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PATRICIA A. BLACKMON, JUDGE

SEAN C. GALLAGHER, A.J., and  
JAMES J. SWEENEY, J., CONCUR