

[Cite as *State ex rel. Hernandez v. Sutula*, 2010-Ohio-2901.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 94983

**STATE OF OHIO, EX REL.
JAIME HERNANDEZ**

RELATOR

VS.

JOHN D. SUTULA, JUDGE

RESPONDENT

**JUDGMENT:
WRIT DENIED**

Writ of Mandamus
Motion No. 433551
Order No. 434824

RELEASE DATE: June 21, 2010

FOR RELATOR

Jaime Hernandez, pro se
Inmate No. 514-875
Allen Correctional Institution
P. O. Box 4501
Lima, Ohio 45802

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

KENNETH A. ROCCO, P.J.:

{¶ 1} Relator, Jaime Hernandez, requests that this court compel respondent judge to dispose of relator's supplemental evidentiary submission filed in *State v. Hernandez*, Cuyahoga County Court of Common Pleas Case No. CR-484277 on September 5, 2008.

{¶ 2} Respondent has filed a motion for summary judgment attached to which is a copy of a journal entry issued by respondent and received for filing by the clerk on April 28, 2010 in which respondent denied the filing because "it is not a proper motion under the Ohio Rules of Court." Relator has not

opposed the motion. Respondent argues that this action in mandamus is, therefore, moot. We agree.

{¶ 3} Additionally, the relator avers in his “Affidavit of Verity” “that each of the foregoing statements and factual allegations are true and correct to the best of my knowledge and belief * * *.” It is well-established that a conclusory statement in an affidavit does not satisfy the requirement in Loc.App.R. 45(B)(1)(a) that the complaint in an original action must be supported by an affidavit specifying the details of the claim. As a consequence, relator’s failure to comply with Loc.App.R. 45(B)(1)(a) provides an additional basis for denying relief. See, e.g., *State ex rel. Stockwell v. Saffold*, Cuyahoga App. No. 93680, 2009-Ohio-4884.

{¶ 4} 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.

KENNETH A. ROCCO, PRESIDING JUDGE

FRANK D. CELEBREZZE, JR., J., and
LARRY A. JONES, J., CONCUR

