

[Cite as *State ex rel. Davis v. Saffold*, 2014-Ohio-307.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 100742

**STATE OF OHIO, EX REL.,
ROBERT DAVIS**

RELATOR

VS.

JUDGE SHIRLEY STRICKLAND SAFFOLD

RESPONDENT

**JUDGMENT:
WRIT DENIED**

Writ of Procedendo
Motion No. 471247
Order No. 471397

RELEASE DATE: January 29, 2014

FOR RELATOR

Robert Davis, pro se
Grafton Reintegration Center, #A572-537
2500 South Avon-Belden Road
Grafton, Ohio 44044

ATTORNEYS FOR RESPONDENT

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

MARY J. BOYLE, A.J.:

{¶1} Robert Davis has filed a complaint for a writ of procedendo. Davis seeks an order from this court that requires Judge Shirley Strickland Saffold to “proceed to judgment as ordered by the Court of Appeals, Eighth Appellate District in Appeal No. 99376, filed on November 7, 2013, for the purpose of remand for execution of sentence.”

Judge Saffold has filed a motion for summary judgment, which we grant for the following reasons.

{¶2} Initially, we find that Davis’s complaint for a writ of procedendo is defective. Davis has failed to provide this court with a sworn affidavit, required by Loc.App.R. 45(B)(1)(a), that specifies the details of the complaint. *State ex rel. Mayes v. Ambrose*, 8th Dist. Cuyahoga No. 91980, 2009-Ohio-25; *James v. Callahan*, 8th Dist. Cuyahoga No. 89654, 2007-Ohio-2237. In addition, Davis has failed to comply with R.C. 2969.25(C), which requires a statement that: (1) sets forth the balance in his inmate account for the preceding six months, as certified by the institutional cashier; and (2) a statement that sets forth all other cash and things of value as owned by the inmate.

{¶3} Finally, Davis has failed to establish that he is entitled to a writ of procedendo, based upon the appellate judgment rendered in *State v. Davis*, 8th Dist. Cuyahoga No. 99376, 2013-Ohio-4905. In *Davis*, this court addressed one assignment of error that dealt with the issue of whether “[t]he sentencing court erred and acted contrary to law when it filed a nunc pro tunc judgment entry for purposes other than correcting

clerical mistakes as permitted by Rule 36 of the Ohio Criminal Rules of Procedure.” On appeal, this court found that Davis’s sole assignment of error was not well taken based upon the doctrine of res judicata and that Judge Saffold had properly employed a nunc pro tunc entry to clarify that Davis was subject to incarceration for a period of eight years. The appeal was not remanded to Judge Saffold for any further proceedings or for the entry of any additional judgments. Thus, Davis has failed to establish that he is entitled to a writ of procedendo. *State ex rel. Sherrills v. Cuyahoga Cty. Court of Common Pleas*, 72 Ohio St.3d 461, 1995-Ohio-26, 650 N.E.2d 899.

{¶4} Accordingly, we grant Judge Saffold’s motion for summary judgment. Costs to Davis. The court directs the clerk of court to serve all parties with notice of this judgment and the date of entry upon the journal as required by Civ.R. 58(B).

{¶5} Writ denied.

MARY J. BOYLE, ADMINISTRATIVE JUDGE

KATHLEEN ANN KEOUGH, J., and
TIM McCORMACK, J., CONCUR