

[Cite as *Jackson v. Judge, Cuyahoga Cty. Court of Common Pleas*, 2014-Ohio-3424.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
Nos. 101388 and 101411

CLIFFORD D. JACKSON, III

RELATOR

vs.

**STATE OF OHIO JUDGE,
COURT OF COMMON PLEAS**

RESPONDENT

**JUDGMENT:
WRIT DENIED**

Writ of Mandamus
Motion No. 476705
Order No. 477009

RELEASE DATE: August 5, 2014

FOR RELATOR

Clifford D. Jackson, pro se
Inmate No. 642-548
Mansfield Correctional Institution
P.O. Box 788
Mansfield, Ohio 44901

ATTORNEYS FOR RESPONDENT

Timothy J. McGinty
Cuyahoga County Prosecutor

By: James E. Moss
Assistant County Prosecutor
9th Floor Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

EILEEN T. GALLAGHER, J.:

{¶1} Clifford D. Jackson, III has filed a complaint for a writ of mandamus. Jackson seeks to compel an unidentified judge of the Cuyahoga County Court of Common Pleas, the respondent, to render a ruling with regard to a petition for postconviction relief filed in *State v. Jackson*, Cuyahoga C.P. No. 11-CR-551409-A.

{¶2} Attached to the respondent's motion for summary judgment is a copy of a judgment, journalized on July 10, 2014, which demonstrates that a ruling has been rendered with regard to Jackson's petition for postconviction relief. Thus, the complaint for a writ of mandamus is moot. *State ex rel. Jerningham v. Cuyahoga Cty. Court of Common Pleas*, 74 Ohio St.3d 278, 658 N.E.2d 723 (1996); *State ex rel. Gantt v. Coleman*, 6 Ohio St.3d 5, 450 N.E.2d 1163 (1983).

{¶3} It must also be noted that Jackson's complaint for a writ of mandamus is defective since it is improperly captioned. A complaint for a writ of mandamus must be brought in the name of the state, on relation of the person applying. The failure of Jackson to properly caption his complaint for a writ of mandamus warrants dismissal. R.C. 2731.04; *Blankenship v. Blackwell*, 103 Ohio St.3d 567,

2004-Ohio-5596, 817 N.E.2d 382; *Gannon v. Gallagher*, 145 Ohio St. 170, 60 N.E.2d 666 (1945).

{¶4} Jackson has also failed to name the proper party as the respondent. Jackson's complaint is therefore fatally defective. *State ex rel. Johnson v. Jensen*, Slip Opinion No. 2014-Ohio-3159. Finally, Jackson's complaint did not contain a sworn affidavit that specified the details of his claim as required by Loc.App.R. 45(B)(1)(a), or a sworn affidavit that specified each civil action or appeal of a civil action filed within the last five years, as required by R.C. 2969.25(A). The failure to comply with Loc.App.R. 45(B)(1)(a) and R.C. 2969.25(A) warrants dismissal of the complaint for a writ of mandamus. *State ex rel. Washington v. Ohio Adult Parole Auth.*, 87 Ohio St.3d 258, 719 N.E.2d 544 (1999); *State ex rel. Jones v. McGinty*, 8th Dist. Cuyahoga No. 92602, 2009-Ohio-1258; *State ex rel. Hightower v. Russo*, 8th Dist. Cuyahoga No. 82321, 2003-Ohio-3679.

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

{¶6} Writ denied.

EILEEN T. GALLAGHER, JUDGE

KATHLEEN ANN KEOUGH, P.J., and
MARY EILEEN KILBANE, J., CONCUR