

[Cite as *State ex rel. Ventra v. Bozza*, 2014-Ohio-3732.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 101499

STATE OF OHIO, EX REL.
CHARLES W. VENTRA

RELATOR

vs.

JUDGE MARY KAYE BOZZA, ET AL.

RESPONDENTS

JUDGMENT:
WRIT DENIED

Writ of Mandamus
Motion No. 477657
Order No. 477781

RELEASE DATE: August 27, 2014

FOR RELATOR

Charles W. Ventra, pro se
Inmate No. 633-324
Mansfield Correctional Institution
P.O. Box 8107
Mansfield, Ohio 44901

ATTORNEY FOR RESPONDENTS

Michael E. Cicero
25 West Prospect Avenue
Republic Building, Suite 1400
Cleveland, Ohio 44115

EILEEN T GALLAGHER, J.:

{¶1} Charles W. Ventra has filed a complaint for a writ of mandamus. Ventra seeks an order from this court that requires Judge Mary Kaye Bozza to dismiss Lyndhurst M. C. No. MH-12-10706 based upon the application of R.C. 2941.401 (prisoner may request trial on pending charges). The request for a writ of mandamus is denied.

{¶2} Attached to Judge Bozza's motion for summary judgment are two sworn affidavits that establish (1) there exists no pending criminal actions in the Lyndhurst Municipal Court that name Ventra as a defendant, and (2) the arrest warrant of Ventra that was issued in connection with Mayfield Heights Police Department incident number 12-10706, was recalled on or about May 15, 2014, and was removed from "LEADS," based upon a request by a City of Mayfield Heights prosecutor. It must also be noted that mandamus may not be employed to enforce the dismissal of a criminal proceeding pursuant to R.C. 2941.401. *Tisdale v. Eberlin*, 114 Ohio St.3d 201, 2007-Ohio-3833, 870 N.E.2d 1191; *State ex rel. Bowling v. Court of Common Pleas of Hamilton Cty.*, 24 Ohio St.2d 158, 265 N.E.2d 296 (1970); *State v. Latham*, 8th Dist. Cuyahoga No. 92284, 2009-Ohio-126. Thus, Ventra has failed to establish that he is entitled to a writ of mandamus by his request to dismiss the pending criminal action pursuant to R.C. 2941.401. *State ex rel. Jerningham v. Cuyahoga Cty. Court of Common Pleas*, 74 Ohio St.3d 278, 658 N.E.2d 723; *State ex rel. Gantt v. Coleman*, 6 Ohio St.3d 5, 450 N.E.2d 1163 (1983).

{¶3} Writ denied.

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

EILEEN T. GALLAGHER, JUDGE

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