

[Cite as *State ex rel. Spates v. Donnelly*, 2015-Ohio-111.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 101840

STATE EX REL. LAVELLE A. SPATES

RELATOR

vs.

HONORABLE MICHAEL P. DONNELLY

RESPONDENT

JUDGMENT:
WRIT DENIED

Writ of Mandamus
Motion No. 478632
Order No. 479930

RELEASE DATE: January 9, 2015

FOR RELATOR

Lavelle A. Spates, pro se #641-474
Trumbull Correctional Camp
P.O. Box 640
Leavittsburg, Ohio 44430

ATTORNEYS FOR RESPONDENT

Timothy J. McGinty
Cuyahoga County Prosecutor
By: James E. Moss
Assistant Prosecuting Attorney
Justice Center - 9th Floor
1200 Ontario Street
Cleveland, Ohio 44113

KENNETH A. ROCCO, J.:

{¶1} Lavelle A. Spates has filed a complaint for a writ of mandamus. Spates seeks an order from this court that requires Judge Michael P. Donnelly to render a ruling with regard to a “motion for an order to establish payment plan for court costs” filed in *State v. Spates*, Cuyahoga C.P. Nos. CR-11-552263 and CR-13-571384. Judge Donnelly has filed a motion for summary judgment, which we grant for the following reasons.

{¶2} Attached to Judge Donnelly’s motion for summary judgment is a copy of a judgment entry, journalized on September 19, 2014, which demonstrates that a ruling has been rendered with regard to Spates’s motion to establish a payment plan for court costs. Thus, the complaint for a writ of mandamus is moot. *State ex rel. Jerneinghan 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} In addition, Spates’s complaint for a writ of mandamus is defective. Spates’s complaint failed to comply with Loc.App.R. 45(B)(1)(a), which requires that his complaint contain a sworn affidavit that specifies the details of his claim. *State ex rel. Hopson v. Cuyahoga Cty. Court of Common Pleas*, 135 Ohio St.3d 456, 2013-Ohio-1911, 989 N.E.2d 49; *State ex rel. Leon v. Cuyahoga Cty. Court of Common Pleas*, 123 Ohio St.3d 124, 2009-Ohio-4688, 914 N.E.2d 402. Spates has also failed to comply with R.C. 2969.25(A), which mandates that he provide this court with a sworn affidavit that contains a description of each civil action or appeal of a civil action filed in the previous five years in any state or federal court. *State ex rel. McGrath v. McDonnell*, 126 Ohio St.3d 511, 2010-Ohio-4726, 935 N.E.2d 830. Finally, Spates has failed to comply with R.C. 2969.25(C)(1), which mandates that he file a statement setting forth his inmate account “for each of the preceding six months, as certified by the institutional cashier.” *State ex rel. Castro v. Corrigan*, 129 Ohio St.3d 342,

2011-Ohio-4059, 952 N.E.2d 497.

{¶4} Accordingly, we grant Judge Donnelly's motion for summary judgment. Costs to Judge Donnelly. Costs waived. The court directs the clerk of courts 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.

KENNETH A. ROCCO, JUDGE

FRANK D. CELEBREZZE, JR., P.J., and
EILEEN T. GALLAGHER, J., CONCUR