

[Cite as *State v. Lenhart*, 2015-Ohio-2413.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
No. 102594

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**STATE OF OHIO**

RESPONDENT

vs.

**CHRISTOPHER E. LENHART**

RELATOR

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**JUDGMENT:  
WRIT DENIED**

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Writ of Mandamus  
Motion Nos. 483474 and 483706  
Order No. 485496

**RELEASE DATE:** June 16, 2015

**FOR RELATOR**

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**ATTORNEYS FOR RESPONDENT**

Timothy J. McGinty  
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By: James E. Moss  
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EILEEN A. GALLAGHER, P.J.:

{¶1} On February 9, 2015, the relator, Christopher E. Lenhart, commenced this mandamus action against the respondent, Judge Joan Synenberg, to compel her to rule on a postconviction relief petition, which Lenhart filed on October 15, 2012, in the underlying case, *State v. Lenhart*, Cuyahoga C.P. No. CR-12-558148-A. On March 9, 2015, the respondent, through the Cuyahoga County Prosecutor, moved for summary judgment on the grounds of mootness and procedural defects. On March 17, 2015, Lenhart filed his own motion for summary judgment and endeavored to correct some of the procedural defects. The respondent judge did not respond to Lenhart's summary judgment motion. For the following reasons, this court grants the judge's dispositive motion, denies Lenhart's motion, and denies the application for a writ.

{¶2} Attached to the judge's motion is a certified copy of a file-stamped March 9, 2015 journal entry that denies the October 15, 2012 postconviction relief petition as follows: "The court, having considered defendant's motion and attached exhibits, the state's brief in opposition, the record and evidence presented, finds defendant's motion fails on the merits and therefore is denied." Thus, the respondent judge has fulfilled her duty to resolve the subject motion, and Lenhart has received his requested relief, a resolution of his postconviction petition. This matter is moot.

{¶3} Additionally, Lenhart failed to comply with R.C. 2969.25(A), which requires an affidavit that describes each civil action or appeal filed by the relator within the previous five years in any state or federal court. Lenhart tried to comply with this

requirement by attaching a pleading from a federal habeas corpus petition. However, the attachment is not an affidavit and does not satisfy the statute. *Chari v. Vore*, 91 Ohio St.3d 323, 2001-Ohio-49, 744 N.E.2d 763, and *Griffin v. McFaul*, 116 Ohio St.3d 30, 2007-Ohio-5506, 876 N.E.2d 527. The relator's failure to comply with R.C. 2969.25(A) warrants dismissal of the writ complaint. *State ex rel. Zanders v. Ohio Parole Bd.*, 82 Ohio St.3d 421, 696 N.E.2d 594 (1998), and *State ex rel. Alford v. Winters*, 80 Ohio St.3d 285, 685 N.E.2d 1242 (1997).

{¶4} Relator also did not comply with R.C. 2969.25(C), which requires that an inmate file a poverty affidavit and a certified statement from his prison cashier setting forth the balance in his private account for each of the preceding six months. This also is sufficient reason to deny the mandamus, deny indigency status, and assess costs against the relator. *State ex rel. Hunter v. Cuyahoga Cty. Court of Common Pleas*, 88 Ohio St.3d 176, 2000-Ohio-285, 724 N.E.2d 420.

{¶5} The court also rejects Lenhart's effort to correct the pleading defects because he did not file a motion to amend and because the defects under R.C. 2969.25 are not curable by subsequent amendment. *State ex rel. Young v. Clipper*, 142 Ohio St.3d 318, 2015-Ohio-1351. Moreover, Lenhart's efforts to argue the merits of his case, such as the trial court's failure to inform him of the maximum penalties at his guilty plea hearing, are unpersuasive because they exceed the scope of his mandamus complaint.

{¶6} Accordingly, this writ action is denied. 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).

{¶7} Writ denied.

EILEEN A. GALLAGHER, P.J.

MARY EILEEN KILBANE, J., and  
SEAN C. GALLAGHER, J., CONCUR