

[Cite as *State ex rel. Havergne v. Calabrese*, 2015-Ohio-325.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 102236

STATE EX REL. CARLOS M. HAVERGNE, JR.

RELATOR

vs.

JUDGE DEENA R. CALABRESE

RESPONDENT

JUDGMENT:
WRIT DENIED

Writ of Procedendo
Order No. 482063
Motion No. 481192

RELEASE DATE: January 28, 2015

FOR RELATOR

Carlos M. Havergne, Jr., pro se
Inmate Number 644-883
North Coast Correctional Complex
670 Marion Williamsport Rd. E.
Marion, OH 43301

ATTORNEYS FOR RESPONDENT

Timothy J. McGinty
Cuyahoga County Prosecutor

By: James E. Moss
Assistant County Prosecutor
Justice Center, 8th Floor
1200 Ontario Street
Cleveland, OH 44113

MELODY J. STEWART, J.:

{¶1} On November 21, 2014, the relator, Carlos M. Havergne, Jr., commenced this procedendo action against the respondent, Judge Deena Calabrese, to compel her to rule on his motions for jail-time credit that he filed on July 3, 2014 in the underlying cases, *State v. Havergne*, Cuyahoga C.P. Nos. CR-12-561398-A and CR-12-567232-A. On December 17, 2014, the respondent moved for summary judgment on the grounds of mootness. Attached to the dispositive motion was a copy of a journal entry, file-stamped December 4, 2014, granting Havergne “a combined total of 419 days of jail-time credit in Case No. 561398-A and Case No. 567232-A.” This journal entry establishes that the respondent judge has proceeded to judgment on the outstanding motions. Havergne never filed a response to the motion for summary judgment. This writ action is, therefore, moot. *State ex rel. Corder v. Wilson*, 68 Ohio App.3d 567, 589 N.E.2d 113 (10th Dist.1991).

{¶2} The relator also did not comply with R.C. 2969.25(C), which requires that an inmate file 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 application for a writ of procedendo, deny indigency status, and assess costs against the relator. *State ex rel. Pamer v. Collier*, 108 Ohio St.3d 492, 2006-Ohio-1507, 844 N.E.2d 842; and *Hazel v. Knab*, 130 Ohio St.3d 22, 2011-Ohio-4608, 955 N.E.2d 378.

{¶3} Accordingly, the court grants the respondent’s motion for summary judgment and denies the writ. Relator to pay costs. This court directs the clerk of courts to serve all parties notice of this judgment and its date of entry upon the journal as required by Civ.R. 58(B).

{¶4} Writ denied.

MELODY J. STEWART, JUDGE

LARRY A. JONES, SR., P.J., and
TIM McCORMACK, J., CONCUR