

[Cite as *Pointer v. Ross Correctional Warden*, 2015-Ohio-4692.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 103376

DENNIS POINTER

RELATOR

vs.

ROSS CORRECTIONAL WARDEN, JOHN DOE

RESPONDENTS

JUDGMENT:
COMPLAINT DISMISSED

Writ of Mandamus
Motion No. 489206
Order No. 490013

RELEASE DATE: November 10, 2015

FOR RELATOR

Dennis Pointer
Inmate No. 280895
Ross Correctional Institution
P.O. Box 7010
Chillicothe, Ohio 45601

ATTORNEYS FOR RESPONDENTS

Mike DeWine
Ohio Attorney General
By: Gene D. Park
Assistant Attorney General
Criminal Justice Section
150 East Gay Street, 16th Floor
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EILEEN T. GALLAGHER, J.:

{¶1} Relator, Dennis Pointer, has filed a complaint for a writ of mandamus. Pointer seeks an order from this court that requires the respondents, the warden of the Ross Correctional Institution and the cashier of the Ross Correctional Institution, to “not place a hold” on his prison account for costs associated with a Franklin County civil action. For the following reasons, we grant a motion to dismiss on behalf of the respondents.

{¶2} Pointer’s complaint for a writ of mandamus does not comply with R.C. 2731.04, which requires that an action for a writ of mandamus be brought in the name of the state on the relation of the person applying. Pointer did not bring this action in the name of the state. “If * * a respondent in a mandamus action raises this R.C. 2731.04 defect and relators fail to seek leave to amend their complaint to comply with R.C. 2731.04, the mandamus action must be dismissed.” *Blankenship v. Blackwell*, 103 Ohio St.3d 567, 2004-Ohio-5596, 817 N.E.2d 382, ¶ 36; *Litigaide, Inc. v. Lakewood Police Dept. Custodian of Records*, 75 Ohio St.3d 508, 1996-Ohio-205, 664 N.E.2d 521. No leave was sought by Pointer to amend the caption of his complaint in order to comply with R.C. 2731.04.

{¶3} Pointer has failed to comply with R.C. 2969.25(A), which provides that an inmate commencing a civil action against a government entity or employee must file an 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.

{¶4} In addition, Pointer has failed to comply with R.C. 2969.25(C)(1), which mandates that he file a statement setting forth his inmate account balance “for each of the preceding six months, as certified by the institutional cashier.” *State ex rel. Jackson v. Calabrese*, 143 Ohio

St.3d 409, 2015-Ohio-2918, 38 N.E. 3d 880; *State ex rel. Castro v. Corrigan*, 129 Ohio St.3d 342, 2011-Ohio-4059, 952 N.E.2d 497.

{¶5} Moreover, Pointer has not provided this court with authority establishing that he possesses a clear legal right to prevent a hold on his prison account for costs associated with a Franklin County civil action or that the respondents possess a duty to not place a hold on his prison account. Furthermore, Pointer has failed to establish that he has exhausted all other legal remedies prior to seeking a writ of mandamus from this court. *State ex rel. Walker v. Lancaster City School Dist. Bd. of Edn.*, 79 Ohio St.3d 216, 680 N.E.2d 993 (1997); *State ex rel. Ney v. Niehaus*, 33 Ohio St.3d 118, 515 N.E.2d 914 (1987). *See also State ex rel. Elkins v. Fais*, 143 Ohio St.3d 366, 2015-Ohio-2873, 37 N.E. 3d 1229; *Turner v. Dept. of Rehab. & Corr.*, Slip Opinion No. 2015-Ohio-2833; *State ex rel. Walker v. State*, 142 Ohio St.3d 365, 2015-Ohio-1481, 30 N.E.3d 947; *State ex rel. Turner v. Corrigan*, 142 Ohio St.3d 303, 2015-Ohio-980, 29 N.E.3d 962; *State ex rel. Nickleson v. Mayberry*, 131 Ohio St.3d 416, 2012-Ohio-1300, 965 N.E.2d 1000.

{¶6} Finally, this court lacks territorial jurisdiction over Pointer's complaint for a writ of mandamus because the respondents are located beyond the territorial boundaries of Cuyahoga County, Ohio. Because the Ross Correctional Institution is located beyond the boundaries of our territorial jurisdiction, this court does not possess the ability to order the respondents to perform any specific duty. Such authority lies within the Fourth Appellate District, in which the Ross Correctional Institution is physically located. *State ex rel. Simpson v. Jackson*, 10th Dist. Franklin No. 09AP-241, 2008-Ohio-4357; *State ex rel. Hill v. Geisler*, 11th Dist. Portage No. 2005-P-0048, 2005-Ohio-6903.

{¶7} Accordingly, we grant the respondents' motion to dismiss. Costs to Pointer. 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).

{¶8} Complaint dismissed.

EILEEN T. GALLAGHER, JUDGE

FRANK D. CELEBREZZE, JR., A.J., and
PATRICIA ANN BLACKMON, J., CONCUR