

[Cite as *Mankins v. Jackson*, 2015-Ohio-5155.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 103392

MICHAEL MANKINS

RELATOR

vs.

HON. JUDGE MICHAEL JACKSON

RESPONDENT

JUDGMENT:
WRIT DENIED

Writ of Procedendo
Motion No. 489160
Order No. 490863

RELEASE DATE: December 8, 2015

FOR RELATOR

Michael Mankins, pro se
Inmate No. 642-791
Lake Erie Correctional Institution
P.O. Box 8000
Conneaut, Ohio 44030

ATTORNEYS FOR RESPONDENT

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

MARY J. BOYLE, J.:

{¶1} Michael Mankins filed a document captioned writ of procedendo. Mankins seeks an order from this court that requires respondent Judge Michael Jackson to resentence him in compliance with this court's mandate in *State v. Mankins*, 8th Dist. Cuyahoga No. 100169, 2014-Ohio-2391. Respondent has filed a motion for summary judgment based on numerous procedural deficiencies and on the basis that the action is moot. Mankins has not opposed the motion for summary judgment, which we grant for the reasons that follow.

{¶2} Several pleading defects merit dismissal. A complaint for a writ of procedendo must be brought in the name of the state of Ohio, on relation of the person applying for the writ, and include the addresses of the parties as required by Civ.R. 10(A). Mankins failed to properly caption his complaint for a writ of procedendo. The failure to properly caption the complaint warrants dismissal. *Rust v. Lucas Cty. Bd. of Elections*, 108 Ohio St.3d 139, 2005-Ohio-5795, 841 N.E.2d 766; *Maloney v. Court of Common Pleas of Allen Cty.*, 173 Ohio St. 226, 181 N.E.2d 270 (1962); *Simmons v. Saffold*, 8th Dist. Cuyahoga No. 94619, 2010- Ohio-918; *Dunning v. Cleary*, 8th Dist. Cuyahoga No. 78763, 2001 Ohio App. LEXIS 79 (Jan. 11, 2001)._

{¶3} Mankins's pleading does not contain (1) an affidavit that specifies each civil action or appeal of a civil action filed within the last five years, as required by R.C. 2969.25(A); and (2) statements that set forth the balance in his account for the preceding six months and also set forth all other owned cash and things of value, as required by R.C. 2969.25(C). The failure to comply with the requirements of R.C. 2969.25(A) and 2969.25(C) warrants dismissal of the complaint. *See State ex rel. Washington v. Ohio Adult Parole Auth.*, 87 Ohio St.3d 258, 1999-Ohio-53, 719 N.E.2d 544.

{¶4} Mankins's request for a writ of procedendo is moot. On

September 15, 2015, respondent held a resentencing hearing pursuant to this court's mandate, which renders this action moot. *State ex rel. Culgan v. Collier*, 135 Ohio St.3d 436, 2013-Ohio-1762, 988 N.E.2d 564 ¶ 13, citing *Martin v. Judges of the Lucas Cty. Court of Common Pleas*, 50 Ohio St.3d 71, 72, 552 N.E.2d 906 (1990) (neither procedendo nor mandamus will compel the performance of a duty that has already been performed). Respondent's motion for summary judgment is granted. Costs to respondent. Costs ordered waived. It is further ordered that the clerk of the Eighth District Court of Appeals serve notice of this judgment upon all parties as required by Civ.R. 58(B).__

{¶5} Writ denied.

MARY J. BOYLE, JUDGE

EILEEN T. GALLAGHER, P.J., and
SEAN C. GALLAGHER, J., CONCUR