

[Cite as *Williams v. Matthews*, 2016-Ohio-2648.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 103933

DONALD C. WILLIAMS

RESPONDENT

vs.

IVAN T. MATTHEWS

RELATOR

JUDGMENT:
COMPLAINT DISMISSED

Writ of Mandamus
Order No. 494288

RELEASE DATE: April 8, 2016

FOR RELATOR

Ivan T. Matthews, pro se
3305 East 143rd Street
Cleveland, Ohio 44120

ATTORNEY FOR RESPONDENT

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Law Director
City of Cleveland
Department of Law
601 Lakeside Avenue - Room 106
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PATRICIA ANN BLACKMON, J.:

{¶1} Ivan T. Matthews seeks a writ of mandamus in order to compel Judge Michelle D. Early, the presiding judge in *Williams v. Matthews*, Cleveland M. C. No. 2008CVI024776, “to transmit the record of proceedings and settle or approve an App.R. 9(A) and/or App.R. 9(C) statement” to be used in prosecuting the appeal filed in *Williams v. Matthews*, 8th Dist. Cuyahoga No. 103501.

{¶2} Mandamus will not issue to compel a vain act. *State ex rel. Julnes v. S. Euclid City Council*, 130 Ohio St.3d 6, 2011-Ohio-4485, 955 N.E.2d 363. In this case, a writ of mandamus to compel Judge Early to approve Matthews’s App.R. 9(C) statement and transmit the record would be a vain act. This court, in *Williams v. Matthews*, 8th Dist. Cuyahoga No. 103501, issued two separate orders that provided no App.R. 9(C) statement was required for the appeal and that the record was amended to reflect an App.R. 9(A) record, which consisted solely of the original papers and exhibits filed in the trial court:

1) Motion No. 490394, dated November 18, 2015:

Motion by appellant to request leave to file copy of certified statement of evidence or proceedings where no stenographic report was made in compliance with the Ohio Rule of Appellate Procedure 9(C) is denied. Sua sponte, the praecipe is amended to App.R. 9(A). The 9(A) record is due December 3, 2015.

2) Motion No. 491306, dated December 8, 2015:

Motion by appellant, pro se, for reconsideration of court’s entry dated November 18, 2015, is denied. A 9(C) record is inappropriate to this case.

{¶3} It must also be noted that the App.R. 9(A) record was transmitted to this court on October 20, 2015, and that the appellant's brief with assignments of error was filed on January 22, 2016.

{¶4} Accordingly, we sua sponte dismiss the complaint for a writ of mandamus. Costs to Matthews. 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} Complaint dismissed.

PATRICIA ANN BLACKMON, JUDGE

KATHLEEN ANN KEOUGH, P.J., and
MARY J. BOYLE, J., CONCUR