

[Cite as *Robinson v. Cuyahoga Common Pleas Court*, 2016-Ohio-409.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 103623

JODY E. ROBINSON

RELATOR

vs.

CUYAHOGA COMMON PLEAS COURT, ET AL.

RESPONDENTS

JUDGMENT:
WRIT DENIED

Writ of Prohibition
Motion No. 490069
Order No. 492503

RELEASE DATE: January 29, 2016

FOR RELATOR

Jody E. Robinson, pro se
Cuyahoga County Jail
Inmate No. 019006
P.O. Box 5600
Cleveland, Ohio 44113

ATTORNEYS FOR RESPONDENTS

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

ANITA LASTER MAYS, J.:

{¶1} Jody E. Robinson has filed a complaint for a writ of prohibition in order to compel the Cuyahoga County Court of Common Pleas to dismiss with prejudice the indictment for rape and kidnapping filed in *State v. Robinson*, Cuyahoga C.P. No. CR-15-598539. We decline to issue a writ of prohibition on behalf of Robinson.

{¶2} Initially, we find that Robinson's complaint for a writ of prohibition is defective for the following reasons:

1) Failure to comply with R.C. 2969.25(A), which mandates that any inmate that commences 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 that an inmate has filed in the previous five years in any state or federal court. *Clarke v. McFaul*, 8th Dist. Cuyahoga No. 89447, 2007-Ohio-2520.

2) Failure to comply with R.C. 2969.25(C), which provides that any inmate that files a complaint against a government entity or employee must include a statement that sets forth the balance in his inmate account for the preceding six months, as certified by the institutional cashier. *State ex rel. White v. Bechtel*, 99 Ohio St.3d 11, 2003-Ohio-2262, 788 N.E.2d 634. It must also be noted that the subsequent filing of the statement does not cure the defect. *Fuqua v. Williams*, 100 Ohio St.3d 211, 2003-Ohio-5533, 797 N.E.2d 982.

3) Failure to comply with Civ.R. 10(A), which requires that the addresses of all parties be listed in the caption of the original action. *State ex rel. Tate v. Callahan*, 8th Dist. Cuyahoga No. 85615, 2005-Ohio-1202.

{¶3} Finally, Robinson's claim that the indictment for the offenses of rape and kidnapping is defective and must be dismissed with prejudice, because the indictment was

tampered with vis-a-vis an altered filing date, is not cognizable through a complaint for a writ of prohibition. Robinson possesses adequate remedies in the ordinary course of the law through a motion to dismiss the indictment and, in the event he is convicted based upon the alleged defective indictment, through an appeal. *State ex rel. Bandarapalli v. Gallagher*, 128 Ohio St.3d 314, 2011-Ohio-230, 943 N.E.2d 1020; *Henderson v. Saffold*, 8th Dist. Cuyahoga No. 100406, 2014-Ohio-306; *Steele v. Shobert*, 8th Dist. Cuyahoga No. 100621, 2014-Ohio-219. A claim of a defective indictment can be raised and addressed only by direct challenge in the ordinary course of the law rather than through a collateral attack by way of an extraordinary writ. *Midling v. Perrini*, 14 Ohio St.2d 106, 236 N.E.2d 557 (1968); *State v. Wozniak*, 172 Ohio St. 517, 178 N.E.2d 800 (1961).

{¶4} Accordingly, we grant the motion for summary judgment filed by the Cuyahoga County Court of Common Pleas. Costs to Robinson. 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} Writ denied.

ANITA LASTER MAYS, JUDGE

EILEEN A. GALLAGHER, P.J., and
MARY J. BOYLE, J., CONCUR