

[Cite as *State v. Bullitt*, 2016-Ohio-410.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 103638

STATE OF OHIO

RELATOR

vs.

DEAUNTE BULLITT

RESPONDENT

JUDGMENT:
WRIT DENIED

Writ of Mandamus
Order No. 492652

RELEASE DATE: January 29, 2016

FOR RELATOR

Deaunte Bullitt, pro se
Inmate No. A651113
Richland Correctional Institution
P.O. Box 8107
Mansfield, Ohio 44901

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SEAN C. GALLAGHER, J.:

{¶1} On October 16, 2015, the relator, commenced this public records mandamus action to compel the release of “Police Radio Chatter/Broadcast of this involved incident” that relates to the underlying case, *State v. Bullitt*, Cuyahoga C.P. No. CR-12-565262-C.¹ Bullitt maintains that such records would show his innocence as a mere bystander in a house in which others were trafficking in cocaine. For the following reasons, this court denies the application for the writ, sua sponte.

{¶2} Bullitt did not fulfill a statutory prerequisite for obtaining records from his criminal case. The Ohio Public Records statute, R.C. 149.43(B)(8), provides that a person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction to inspect or obtain copies of any public records concerning a criminal investigation or prosecution unless the judge who imposed the sentence or the judge’s successor in office finds that the information sought in the public records is necessary to support what appears to be a justiciable claim of the person. A review of the docket in the underlying case shows that Bullitt sought such permission, but on November 10, 2015, the judge denied Bullitt’s motion for release of public records. Accordingly, there is no duty to provide access or copies to Bullitt.

{¶3} Moreover, a mandamus petition, especially one filed by a prisoner, must have certain formal elements in order to be effective and not subject to summary dismissal. R.C. 2731.04 requires that an application for a writ of mandamus “must be by petition, in the name of the state on the relation of the person applying.” In other words, a petitioner must caption his

¹ In the underlying case, a jury found Bullitt guilty of drug trafficking and drug possession with major drug offender specifications, two counts of possession of criminal tools, and one count of tampering with evidence. The trial court sentenced him to a total of 11 years.

mandamus action with “State ex rel.” This failure to properly caption a mandamus action is sufficient grounds for denying the writ and dismissing the petition. *Maloney v. Court of Common Pleas of Allen Cty.*, 173 Ohio St. 226, 181 N.E.2d 270 (1962).

{¶4} Additionally, Civ.R. 10(A) requires that the caption include the addresses of all the parties. In the present case, Bullitt captioned his petition “State of Ohio v. Deaunte Bullitt,” the underlying case’s caption, and did not list the respondents or their addresses. This failure to caption the case correctly creates uncertainty as to the identity of the respondents. This court has held that this deficiency alone also warrants dismissal. *State ex rel. Calloway v. Court of Common Pleas of Cuyahoga Cty.*, 8th Dist. Cuyahoga No. 71699, 1997 Ohio App. LEXIS 79452 (Feb. 27, 1997); *Jordan v. Cuyahoga Cty. Court of Common Pleas*, 8th Dist. Cuyahoga No. 96013, 2011-Ohio-1813.

{¶5} When he commenced this case, Bullitt 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 mandamus, 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 — this defect may not be cured on subsequent filings.

{¶6} Accordingly, this court, sua sponte, denies the application for a writ of mandamus. 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).

{¶7} Writ denied.

SEAN C. GALLAGHER, JUDGE

FRANK D. CELEBREZZE, JR., P.J., and
KATHLEEN ANN KEOUGH, J., CONCUR