

[Cite as *State ex rel. Hodges v. Cuyahoga Cty. Court of Common Pleas*, 2017-Ohio-1567.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 105567

STATE OF OHIO, EX REL.
JAVONTE HODGES

RELATOR

vs.

CUYAHOGA COUNTY COURT
OF COMMON PLEAS

RESPONDENT

JUDGMENT:
WRIT DISMISSED

Writ of Mandamus
Order No. 505897

RELEASE DATE: April 21, 2017

FOR RELATOR

Javonte Hodges, pro se
Inmate No. A634-308
Warren Correctional Institution
P.O. Box 120
Lebanon, Ohio 45036

ATTORNEY FOR RESPONDENT

Michael C. O'Malley
Cuyahoga County Prosecutor
By: James E. Moss
Assistant County Prosecutor
The Justice Center, 8th Floor
1200 Ontario Street
Cleveland, Ohio 44113

EILEEN A. GALLAGHER, P.J.:

{¶1} On March 15, 2017, the relator, Javonte Hodges, commenced this mandamus action against the respondent, the Cuyahoga County Court of Common Pleas, to compel the court to rule on a motion to withdraw a guilty plea in the underlying case, *State v. Hodges*, Cuyahoga C.P. No. CR-12-562692-C.¹ Hodges claims that he filed the subject motion on November 18, 2016, and that the respondent has not yet issued a ruling.

{¶2} However, an examination of the underlying case's docket shows that Hodges filed a motion to withdraw guilty plea on March 9, 2016. He argued that the plea was involuntary because he was on mind-altering drugs and because trial counsel did not investigate the case and misled him into believing that he was pleading to involuntary manslaughter. On June 14, 2016, Hodges filed what he styled as a supplemental motion to withdraw guilty plea. This filing reasserted the ineffective assistance of trial counsel and added authority to his argument. The trial court denied the supplemental motion on November 1, 2016. There is no filing listed for November 18, 2016.² Therefore, the court concludes that this mandamus action is moot. To the extent that Hodges seeks a

¹In early December 2012, Hodges pleaded guilty to murder and aggravated robbery, both with three-year firearm specifications, as well as improperly handling firearms in a motor vehicle and having weapons while under disability. Counts for aggravated murder and aggravated robbery were nolle.

²The state of Ohio filed a brief in opposition to Hodges's motion to withdraw on October 21, 2016, and Hodges filed a "contra motion to respondent's motion to dismiss" on November 10, 2016.

ruling on his motion to withdraw, the trial court has fulfilled its duty. To the extent that Hodges wants a ruling for a November 18, 2016 filing, there is nothing to be resolved.

{¶3} Relator 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 — the defect may not be cured by subsequent filings.

{¶4} Accordingly, this court, sua sponte, dismisses 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).

{¶5} Writ dismissed.

EILEEN A. GALLAGHER, PRESIDING JUDGE

MARY EILEEN KILBANE, J., and
LARRY A. JONES, SR., J., CONCUR