

[Cite as *State ex rel. Harris v. Sutula*, 2017-Ohio-544.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 105172

STATE OF OHIO, EX REL.
BYRON HARRIS

RELATOR

vs.

JUDGE JOHN D. SUTULA

RESPONDENT

JUDGMENT:
WRITS DENIED

Writs of Mandamus and Procedendo
Motion No. 503509
Order No. 502722

RELEASE DATE: February 10, 2017

FOR RELATOR

Byron Harris
Inmate No. A690477
Lorain Correctional Institution
2075 South Avon Belden Road
Grafton, Ohio 44044

ATTORNEYS 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

FRANK D. CELEBREZZE, JR., J.:

{¶1} On November 17, 2016, the relator, Byron Harris, commenced this mandamus and procedendo action to compel the respondent, Judge John D. Sutula, to rule on a motion for jail-time credit that Harris filed on October 7, 2016, in the underlying case, *State v. Harris*, Cuyahoga C.P. No. CR-14-589543-A. On December 14, 2016, the respondent judge moved for summary judgment on the grounds of mootness and pleading defects. Harris did not file a response. For the following reasons, this court grants the judge's motion for summary judgment and denies the application for writs of mandamus and procedendo.

{¶2} Attached to the judge's dispositive motion is a copy of a certified journal entry, file-stamped November 30, 2016, in which the respondent judge granted Harris's November 18, 2016 motion for jail-time credit and allowed him 456 days.¹ A review of the docket in the underlying case further shows that on December 14, 2016, the respondent judge issued another journal entry as follows: "Defendant's motion for jail time credit, filed 10/07/2016 and 11/18/2016, is granted in part and denied in part. Defendant granted a total of 650 days jail time credit." These entries establish that Harris has received his requested relief, rulings on his motions and that the judge has fulfilled his duty to rule on the subject motions. This writ action is moot.

¹The docket in the underlying case shows that Harris filed another motion for jail-time credit on November 18, 2016.

{¶3} This court takes notice that relator has not complied 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; *State ex rel. Hunter v. Cuyahoga Cty. Court of Common Pleas*, 88 Ohio St.3d 176, 2000-Ohio-285, 724 N.E.2d 420; 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 grants the respondent's motion for summary judgment and denies the application for writs of mandamus and procedendo. 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} Writs denied.

FRANK D. CELEBREZZE, JR., JUDGE

EILEEN A. GALLAGHER, P.J., and
MELODY J. STEWART, J., CONCUR