

[Cite as *State ex rel. Miller v. Saffold*, 2017-Ohio-5590.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 105718

STATE OF OHIO, EX REL.
ROBERT MILLER

RELATOR

vs.

HONORABLE SHIRLEY STRICKLAND SAFFOLD

RESPONDENT

JUDGMENT:
WRIT DENIED

Writ of Mandamus
Motion No. 507076
Order No. 507498

RELEASE DATE: June 28, 2017

FOR RELATOR

Robert Miller, pro se
Inmate No. 542-127
Allen Correctional Institution
P.O. Box 4501
Lima, Ohio 45802

ATTORNEYS FOR RESPONDENT

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

MARY J. BOYLE, J.:

{¶1} Robert Miller has filed a complaint for a writ of mandamus. Miller seeks an order from this court that requires Judge Shirley Strickland Saffold to render judgment with regard to a motion to vacate court costs filed in *State v. Miller*, Cuyahoga C.P. No. CR-07-500918. Judge Saffold has filed a motion for summary judgment.

{¶2} Attached to the motion for summary judgment is a copy of a judgment, journalized May 8, 2017, that denied Miller's motion to vacate court costs. Relief is unwarranted because mandamus will not compel the performance of a duty that has already been performed. *State ex rel. Hopson v. Cuyahoga Cty. Court of Common Pleas*, 135 Ohio St.3d 456, 2013-Ohio-1911, 989 N.E.2d 49, ¶ 4. Herein, the request for relief is moot.

{¶3} Finally, Miller's complaint for a writ of mandamus is procedurally defective because he has failed to comply with R.C. 2969.25(A) and 2969.25(C). Pursuant to R.C. 2969.25(A), an inmate that commences a civil action against a government entity or employee must file a sworn affidavit that contains a description of each civil action or appeal of a civil action filed in the previous five years in any state or federal court. *State ex rel. McGrath v. McDonnell*, 126 Ohio St.3d 511, 2010-Ohio-4726, 935 N.E.2d 830. R.C. 2969.25(C)(1) requires that Miller file a statement setting forth his inmate account balance "for each of the preceding six months as certified by the institutional cashier." Miller has failed to provide this court with a

notarized affidavit that describes previously filed civil actions and a certified statement setting forth the balance in his inmate account. *Freed v. Bova*, 8th Dist. Cuyahoga No. 99908, 2013-Ohio-4378; *Turner v. Russo*, 8th Dist. Cuyahoga No. 87852, 2006-Ohio-4490.

{¶4} Accordingly, we grant Judge Saffold's motion for summary judgment. Costs waived. 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.

MARY J. BOYLE, JUDGE

MELODY J. STEWART, P.J., and
PATRICIA ANN BLACKMON, J., CONCUR