

[Cite as *Taylor v. Villanueva*, 2017-Ohio-941.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 105362

ANGELA MARIE TAYLOR

RELATOR

vs.

JUDGE JOSE A. VILLANUEVA

RESPONDENT

**JUDGMENT:
WRIT DENIED**

Writ of Procedendo
Motion No. 504281
Order No. 504986

RELEASE DATE: March 14, 2017

FOR RELATOR

Angela Marie Taylor
Inmate No. 92476
N.E. Reintegration Center
2675 East 30th Street
Cleveland, Ohio 44115

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

EILEEN T. GALLAGHER, J.:

{¶1} Angela Marie Taylor filed a complaint for a writ of procedendo, seeking an order from this court that requires respondent Judge Kelly A. Gallagher¹ to issue a ruling on a motion for jail-time credit filed on September 3, 2015, in the underlying case *State v. Taylor*, Cuyahoga C.P. No. CR-14-591006. On February 7, 2017, respondent moved for summary judgment on the grounds that the complaint is procedurally defective and the matter is moot, which Taylor has not opposed. We agree with respondent and grant the motion for summary judgment.

{¶2} Attached to respondent's motion for summary judgment is a certified copy of a journal entry, file-stamped January 20, 2017, that demonstrates Taylor's motion was ruled upon by the trial court — granting her nine days of jail-time credit. This journal entry therefore establishes that the request for a writ of procedendo is moot. *State ex rel. Bortoli v. Dinkelacker*, 105 Ohio St.3d 133, 2005-Ohio-779, 823 N.E.2d 448, ¶ 3. (“A writ of procedendo will not issue to compel the performance of a duty that has already been performed.”); *State ex rel. Bradley v. Saffold*, 8th Dist. Cuyahoga No. 98512, 2012-Ohio-5081, ¶ 3 (trial court's ruling on motion for jail-time credit rendered the request for a writ of procedendo moot).

¹Taylor incorrectly named Judge Jose Villanueva as the respondent. Judge Kelly A. Gallagher is the successor to Judge Villanueva.

{¶3} We further note that Taylor’s complaint for a writ of procedendo is procedurally defective. Taylor failed to comply with R.C. 2969.25(A), which requires an affidavit to be attached to the complaint “that contains a description of each civil action or appeal of a civil action that the inmate has filed in the previous five years in any state or federal court.” Taylor’s noncompliance warrants denial of her complaint for a writ of procedendo. *Dinkelacker* at ¶ 5, citing *State ex rel. Norris v. Giavasis*, 100 Ohio St.3d 371, 2003-Ohio-6609, 800 N.E.2d 365, ¶ 4. Similarly, Taylor has also failed to comply with R.C. 2929.25(C), which requires that an inmate file a certified statement from her prison cashier setting forth the balance in her private account for each of the preceding six months. This also is sufficient reason to deny the procedendo, 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 (recognizing that the defect may not be cured by subsequent filings).

{¶4} Accordingly, the court grants the respondent’s motion for summary judgment and denies the writ. Costs assessed against relator; costs waived. The clerk is directed to serve upon the parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

{¶5} Writ denied.

EILEEN A. GALLAGHER, P.J., and
TIM McCORMACK, J., CONCUR