

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

September 14, 2022

[Cite as *09/14/2022 Case Announcements #2, 2022-Ohio-3145.*]

MERIT DECISIONS WITHOUT OPINIONS

2022-0897. State ex rel. Mobley v. Baldwin.

In Mandamus. On respondent's motion to dismiss. Motion granted. Cause dismissed.

O'Connor, C.J., and Fischer, DeWine, Donnelly, and Stewart, JJ., concur.
Kennedy, J., dissents, with an opinion joined by Brunner, J.

KENNEDY, J., dissenting.

{¶ 1} Relator, Alphonso Mobley Jr., seeks a writ of mandamus to compel respondent, Franklin County Sheriff Dallas Baldwin, to comply with Mobley's public-record request for a copy of the "execution of warrant to convey" relating to Eriq R. McCorkle. Because the allegations of the complaint are sufficient to state a claim for relief and Sheriff Baldwin's motion to dismiss does not present a meritorious reason to dismiss this action, I would grant an alternative writ and order briefing and the presentation of evidence. The majority decides otherwise. I dissent.

{¶ 2} In considering a motion to dismiss, we assume the truth of all factual allegations in the complaint and draw all reasonable inferences from them in favor of the relator. *State ex rel. Williams Ford Sales, Inc. v. Connor*, 72 Ohio St.3d 111, 113, 647 N.E.2d 804 (1995). We may dismiss for the failure to state a claim on which relief can be granted only if it appears beyond doubt that the relator can prove no set of facts entitling him or her to relief. *Id.*

{¶ 3} Sheriff Baldwin argues that Mobley's complaint should be dismissed for four reasons: (1) Mobley failed to obtain the approval of the sentencing judge before seeking access

to “[a] public record concerning a criminal investigation or prosecution,” as required by R.C. 149.43(B)(8); (2) Mobley has an adequate remedy at law by moving the trial court for the release of the record; (3) Mobley failed to file an affidavit describing all civil litigation he brought in the last five years as required by R.C. 2969.25(A); and (4) Mobley’s affidavit of indigency does not state the balance of his inmate account for each of the preceding six months as required by R.C. 2969.25(C). None of these arguments are well taken.

{¶ 4} First, Sheriff Baldwin’s argument that R.C. 149.43(B)(8) precluded release of the record goes beyond the allegations of the complaint and would require this court to assume both that Mobley is an inmate and that he failed to obtain the approval of the sentencing judge before seeking the record. Neither fact is apparent on the face of the complaint, and we must draw all reasonable inferences from the complaint in favor of Mobley, not against him. *See Connor* at 113. Second, “[r]elators in public-records mandamus cases need not establish the lack of an adequate remedy in the ordinary course of law.” *State ex rel. Am. Civ. Liberties Union of Ohio, Inc. v. Cuyahoga Cty. Bd. of Commrs.*, 128 Ohio St.3d 256, 2011-Ohio-625, 943 N.E.2d 553, ¶ 24. Third, the affidavit requirements of R.C. 2969.25(A) (affidavit of prior litigation) and (C) (affidavit of indigency) do not apply to original actions commenced in this court. *See R.C. 2969.21(B)(2); DeVore v. Black*, 166 Ohio St.3d 311, 2021-Ohio-3153, 185 N.E.3d 1025, ¶ 12 (Kennedy, J., concurring in judgment only).

{¶ 5} Assuming the truth of the allegations in Mobley’s complaint, as we must, it cannot be said that it is beyond doubt that he can prove no set of facts entitling him to relief. For this reason, I would deny Sheriff Baldwin’s motion to dismiss and would issue an alternative writ. Because the majority does not, I dissent.

BRUNNER, J., concurs in the foregoing opinion.
