

NOTICE

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SLIP OPINION NO. 2026-OHIO-3813

THE STATE EX REL. GREGORY v. KUDELA, CLERK.¹

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Gregory v. Kudela*, Slip Opinion No. 2026-Ohio-3813.]

Mandamus—Relator failed to establish that he had a clear legal right to have his memorandum in support of jurisdiction filed or that clerk had a clear legal duty to file it—Writ and relator’s request for damages under R.C. 2731.11 denied.

(No. 2025-1484—Submitted August 4, 2026—Decided October 1, 2026.)

IN MANDAMUS.

The per curiam opinion below was joined by KENNEDY, C.J., and FISCHER, DEWINE, BRUNNER, DETERS, HAWKINS, and SHANAHAN, JJ.

1. Gregory originally named Robert Vaughn, then-clerk of this court, as the respondent in this action. Justin Kudela has replaced Vaughn as the clerk of this court and is automatically substituted for Vaughn as the respondent in this case. See S.Ct.Prac.R. 4.06(B).

Per Curiam.

{¶ 1} In this original action, relator, Laron A. Gregory, requests a writ of mandamus to compel respondent, the clerk of this court (“the clerk”), to accept a proposed filing purportedly submitted by Gregory to institute a jurisdictional appeal. He also requests an award of \$5,000 in statutory damages. Because the clerk has no clear legal duty to file a proposed filing that does not comply with this court’s Rules of Practice, we deny the writ and the request for damages.

BACKGROUND

{¶ 2} Gregory is currently incarcerated at the Lake Erie Correctional Institution. On August 27, 2025, the Sixth District Court of Appeals entered a judgment denying his motion for an extension of time to file a motion for reconsideration in *State v. Gregory*, Sixth District case Nos. L-23-1263 and L-23-1264.² On October 2, 2025, Gregory sent mail to the clerk, seeking to appeal the August 27 judgment. In an affidavit he has submitted into evidence, Gregory attests that the mailing included a notice of appeal, a memorandum in support of jurisdiction, and an affidavit of indigence.

{¶ 3} Eight days later, on October 10, the clerk’s office received Gregory’s mailing that contained his proposed filing in this court. The proposed filing consisted of a memorandum in support of jurisdiction for Gregory’s purported appeal from the Sixth District’s August 27 judgment. In accordance with the practice of the clerk’s office, the first page of this document was stamped to indicate that it was received on October 10. The proposed filing did not include a notice of appeal, nor did it include the \$100 filing fee or an affidavit of indigence.

2. Gregory was seeking reconsideration of the Sixth District’s dismissal of his consolidated appeal from its judgments denying two postconviction motions to return property seized following his convictions for drug possession and trafficking. *See State v. Gregory*, 2024-Ohio-5526, ¶ 1, 5, 11 (6th Dist.).

{¶ 4} Later that day, the clerk’s office sent Gregory a letter advising him that the proposed filing “was not filed because it does not comply with the Rules of Practice of the Supreme Court of Ohio.” The letter added that the filing “does not relate to a case currently pending before [this court] and is insufficient to initiate a new appeal or original action.”

{¶ 5} On October 27, 2025, the clerk’s office received from Gregory mail containing a document styled as “(Motion for Order Pursuant to [S.Ct.Prac.R.] 4.01(A)(1).) Cause Application for order pursuant to [R.C.] 2701.20(B).” In the motion, Gregory requested an order under R.C. 2701.20(B) “to allow the Clerk to file the appeal in which [Gregory] ha[d] attached a copy.” The motion was accompanied by a one-page letter requesting that the clerk’s office file the documents attached to the motion—namely, the October 10 letter from the clerk’s office, an undated notice of appeal with an attached certificate of service dated October 2, an affidavit of indigence dated October 2, and a copy of the memorandum in support of jurisdiction bearing the stamp indicating that the clerk’s office received it on October 10. The clerk’s office rejected Gregory’s October 27 proposed filing, providing the same advisement as in the October 10 letter.

{¶ 6} On November 10, 2025, Gregory commenced the present action for a writ of mandamus “directing [the clerk] to file [Gregory’s] memorandum in support of jurisdiction.” He also requests an award of \$5,000 in damages under R.C. 2731.11. Attached to the complaint is a notarized “affidavit specifying the details of the claim,” the undated notice of appeal with an attached certificate of service dated October 2, the affidavit of indigence dated October 2, the date-stamped memorandum in support of jurisdiction, and the judgment of the Sixth District that Gregory sought to appeal.

{¶ 7} The clerk filed an answer, and we granted an alternative writ, setting a schedule for the submission of evidence and briefs, 2026-Ohio-156. Both parties

submitted evidence and merit briefs, and Gregory timely submitted amended evidence.

ANALYSIS

{¶ 8} To be entitled to the requested writ of mandamus, Gregory must establish a clear legal right to have the memorandum in support of jurisdiction filed, a clear legal duty on the part of the clerk to file it, and the lack of an adequate remedy in the ordinary course of the law. *State ex rel. Montgomery Cty. Pub. Defender v. Siroki*, 2006-Ohio-1065, ¶ 5. Gregory must show entitlement to the writ by clear and convincing evidence. *State ex rel. Adkins v. Cole*, 2025-Ohio-1026, ¶ 12.

{¶ 9} Gregory cannot establish the first two of the above three elements. R.C. 2701.20(A) authorizes a clerk of court to refuse to accept a document for filing if it “is not required or authorized to be filed.” And under S.Ct.Prac.R. 3.02(C), the clerk of this court “may reject documents . . . that fail to comply with the requirements of” our Rules of Practice. To perfect a jurisdictional appeal from the court of appeals to this court, an appellant must concurrently file both a notice of appeal and a memorandum in support of jurisdiction. S.Ct.Prac.R. 7.01(A)(1)(a)(i) and (ii). In addition, S.Ct.Prac.R. 3.04 requires the payment of a filing fee “before a case is filed” in this court, although S.Ct.Prac.R. 3.06 permits the filing of either an affidavit of indigence or a lower court’s entry appointing counsel in lieu of the filing fee. Here, the clerk correctly refused to file Gregory’s October 10, 2025 filing because it did not comply with these rules.

{¶ 10} Gregory asserts in his complaint, evidence, and merit brief that he included a notice of appeal and affidavit of indigence along with the memorandum in support of jurisdiction that he sent to the clerk’s office on October 2. But the clerk’s evidence contradicts this assertion. That evidence includes the affidavit of Amy Ervin, the clerk’s case-management counsel, who is “responsible for reviewing certain documents submitted for filing to the Clerk’s Office to ensure that the

proposed filing complies with the Court’s Rules of Practice.” Ervin attests that the proposed filing received by the clerk’s office on October 10 “did not include a notice of appeal or an affidavit of indigence” and that it did not include a filing fee or an entry appointing counsel in lieu of that. She further attests that “[c]onsistent with the practice of the Clerk’s Office,” the proposed filing was stamped “RECEIVED” with the date the document was received. Moreover, according to Ervin, “[i]f [the clerk’s] office had received the notice [of] appeal and affidavit of indigence, the first page of these documents would have borne the same Clerk’s “RECEIVED” Stamp . . . as the memorandum in support of jurisdiction.” The notice of appeal and affidavit of indigence attached to Gregory’s mandamus complaint do not bear the stamp showing that they were received by the clerk’s office.

{¶ 11} In an affidavit included in his amended evidence, Gregory attempts to rebut the clerk’s evidence. Gregory attests that on or about October 2, he “caused to be sent to [the clerk], for filing, a notice of appeal, a memorandum [in] support of jurisdiction, and an affidavit of indigence.” Gregory’s evidence does not include stamped copies of the notice of appeal or affidavit of indigence, which would show that they were received by the clerk’s office. Rather, his affidavit is supported by the same unstamped copies of those documents that were attached to his complaint. Gregory’s amended evidence also includes an institutional cash slip, dated October 2, showing that he paid for mail to be sent to this court.

{¶ 12} Gregory’s amended evidence does not clearly show that the notice of appeal and affidavit of indigence were included in the proposed filing received by the clerk’s office on October 10. Thus, the amended evidence does not establish that Gregory complied with this court’s Rules of Practice governing the institution of a jurisdictional appeal. *See* S.Ct.Prac.R. 7.01(A)(1)(a). Because the proposed filing did not comply with the Rules of Practice, the clerk was permitted under S.Ct.Prac.R. 3.02(C) to reject it. And because the noncompliant filing was not “required or authorized to be filed,” the clerk was permitted under R.C. 2701.20(A) to refuse to

accept the document for filing. Absent other supporting evidence, Gregory's self-serving affidavit is not sufficient to meet his burden to show by clear and convincing evidence that he is entitled to the writ. *See Adkins*, 2025-Ohio-1026, at ¶ 12. Because Gregory has not shown by clear and convincing evidence that his proposed October 10 filing complied with the Rules of Practice, he has not established that he had a clear legal right to have his memorandum in support of jurisdiction filed or that the clerk had a clear legal duty to file it. Accordingly, we deny Gregory's request for a writ of mandamus.

{¶ 13} Finally, because only a successful relator may recover damages under R.C. 2731.11, *State ex rel. Conomy v. Rohrer*, 2025-Ohio-5296, ¶ 42, we deny Gregory's request under that statute for \$5,000 in damages.

CONCLUSION

{¶ 14} For the foregoing reasons, we deny Gregory's requests for a writ of mandamus and for statutory damages.

Writ denied.

Laron A. Gregory, pro se.

D. Andrew Wilson, Ohio Attorney General, Mark D. Tucker and Thomas J. Gillen, Assistant Attorneys General, for respondent.
