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SLIP OPINION NO. 2026-OHIO-4548

[THE STATE EX REL.] JUSTICE, APPELLANT, *v.* NIXON,[1] APPELLEE.

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Justice v. Nixon*, Slip Opinion No. 2026-Ohio-4548.]

Mandamus—R.C. 2969.25(A)—Because mandamus actions are civil actions, affidavit-filing requirement of R.C. 2969.25(A) applied to inmate's filing of two mandamus actions in court of appeals—Basic procedural filing requirement of R.C. 2969.25(A) did not violate inmate's constitutional rights to due process, equal protection, or redress and did not impede her ability to access the courts—Court of appeals' judgments of dismissal affirmed.

(Nos. 2026-0268 and 2026-0269—Submitted August 11, 2026—Decided

1. Justice originally named Shannon Olds, the former warden of Dayton Correctional Institution, as a respondent in her mandamus actions. Katie Nixon is the current warden at that facility and therefore is substituted automatically for Olds as a respondent in these cases. *See* S.Ct.Prac.R. 4.06(B).

November 19, 2026.)

APPEALS from the Court of Appeals for Montgomery County,
Nos. 30756 and 30751.

The below per curiam opinion announcing the judgment of the court was joined by DEWINE, DETERS, and HAWKINS, JJ. FISCHER, J., concurred in judgment only. KENNEDY, C.J., and BRUNNER and SHANAHAN, JJ., dissented and would reverse the court of appeals' judgments for failing to comply with the rule stated in *State ex rel. Roush v. Hickson*, 2023-Ohio-1696, ¶ 1.

Per Curiam Opinion announcing the judgment of the court.

{¶ 1} Appellant, Monica G. Justice,[2] an inmate at the Ohio Reformatory for Women, appeals the Second District Court of Appeals' judgments dismissing her two mandamus actions filed against appellees, Dayton Correctional Institution ("DCI") and its warden, Katie Nixon; the Ohio Department of Rehabilitation and Correction ("DRC") and its director, Edward H. Banks III;[3] Governor Mike DeWine; and the State of Ohio.

{¶ 2} The Second District sua sponte dismissed Justice's mandamus actions for failure to comply with R.C. 2969.25(A) (requiring an inmate at the time of filing a civil action or appeal against a government entity or employee to file an affidavit describing each civil action or appeal that the inmate has filed in the previous five years in any state or federal court). *R-lotus: justice, ex rel. the res Monica G. Justice v. Olds*, No. C.A. 30751 (2d Dist. Jan. 23, 2026) ("*Justice I*"); *R-lotus: justice, ex*

2. Justice filed her petitions for writs of mandamus under the moniker "r-lotus: justice, ex rel the res Monica G. Justice."

3. Justice originally named Annette Chambers-Smith, the former DRC director, as a respondent in her mandamus actions. Since March 2026, Banks has served as the interim director of DRC. Banks therefore is substituted automatically for Chambers-Smith as a respondent in these cases. *See* S.Ct.Prac.R. 4.06(B).

rel. the res Monica G. Justice v. Olds, No. C.A. 30756 (2d Dist. Jan. 28, 2026) ("*Justice II*").

{¶ 3} Justice appealed the dismissals. Because the parties, the petitions for writs of mandamus, and the substance of the briefs filed in these direct appeals are identical, we sua sponte consolidate the appeals in Supreme Court case Nos. 2026-0268 and 2026-0269 for purposes of decision.

{¶ 4} Justice presents four arguments challenging the Second District's application of R.C. 2969.25(A) to her cases and the constitutionality of that statutory provision on various grounds.

{¶ 5} For the reasons that follow, we affirm the Second District's judgments of dismissal.

I. FACTUAL AND PROCEDURAL BACKGROUND

{¶ 6} On January 21, 2026, while incarcerated at DCI, Justice filed a petition in Second District case No. C.A. 30751. She sought a writ of mandamus to compel DCI and DRC to immediately provide the following:

> 1) alternative computer processors with direct access to legal case work pleadings, documents, research, et al., currently "locked" and inaccessible in DCI's inaccessible "legal library" computers;
>
> 2) alternative means to print documents relative to legal case work now unavailable or otherwise;
>
> 3) alternative means to effect photocopies of documents relative to legal case work now unavailable or otherwise; [and]
>
> 4) preservation of all legal case work pleadings, documents, research, et al., currently "locked" and inaccessible in DCI's inaccessible "legal library" computers or otherwise.

{¶ 7} On January 23, Justice filed an identical petition in a second case in

the same court—Second District case No. C.A. 30756. Justice filed a brief in support of her second mandamus petition with 13 attached exhibits and a petition for waiver of fees, none of which were filed in Second District case No. C.A. 30751.

{¶ 8} That same day, the Second District sua sponte dismissed Justice's petition in case No. C.A. 30751 on the ground that Justice had failed to file an affidavit of her prior civil actions as required by R.C. 2969.25(A). *Justice I*, No. C.A. 30751, at 2 (2d Dist. Jan. 23, 2026). In support of the dismissal, the Second District took judicial notice of this court's publicly accessible online docket, which shows that Justice has filed multiple civil actions against government entities and employees in the past five years. *See id.* Five days later, the Second District sua sponte dismissed Justice's petition in case No. C.A. 30756 on the same ground, again after taking judicial notice of this court's publicly accessible online docket but also after taking judicial notice of its own docket, which presumably showed Justice's filing of case No. C.A. 30751. *Justice II*, No. C.A. 30756, at 2 (2d Dist. Jan. 28, 2026).

II. ANALYSIS

{¶ 9} R.C. 2969.25(A) requires an inmate who commences a civil action against a government entity or employee to file an affidavit describing "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." The affidavit must include (1) a brief description of the nature of the civil action or appeal, (2) the case name, case number, and court in which the civil action or appeal was brought, (3) the name of each party to the civil action or appeal, and (4) the outcome of each civil action or appeal. *Id*. Compliance with R.C. 2969.25(A) is mandatory, and failure to comply warrants dismissal of the action. *State v. Henton*, 2016-Ohio-1518, ¶ 3. However, an inmate is not required to file an R.C. 2969.25(A) affidavit if the inmate has not filed any other civil actions or appeals in the past five years. *See, e.g.*, *State ex rel. Wickensimer v. Bartleson*, 2009-Ohio-4695, ¶ 3; *State ex rel. Walker v. Ballinger*,

2024-Ohio-181, ¶ 9.

{¶ 10} This court reviews de novo the dismissal of an inmate's extraordinary-writ action for failure to comply with R.C. 2969.25. *State ex rel. Pointer v. Adult Parole Auth.*, 2022-Ohio-3261, ¶ 6.

{¶ 11} Justice does not contest the court of appeals' determination in each of her mandamus actions that she failed to comply with R.C. 2969.25(A) but instead presents in her merit briefs four arguments for our review. First, she challenges the constitutionality of R.C. 2969.21 through 2969.27 on equal-protection, due-process, and right-to-redress grounds. Second, she asserts that R.C. 2969.25(A) requires inmates to "perform an impossibility of law" to seek redress, a remedy, and justice. Third, she challenges the constitutionality of R.C. 2969.25(B), which allows the court in which an inmate has filed a civil action or appeal to appoint a member of the bar to review the claim that is the basis of the civil action or the issues of law that are the basis of the appeal, if the inmate has filed three or more civil actions or appeals in a court of record in the preceding 12 months. And fourth, she contends that the "expansion" of R.C. 2969.21 through 2969.27 (which, by their terms, apply only to civil actions and appeals filed by inmates) to common-law writ actions is unconstitutional. (Double underlining in original.)

A. Justice Has Failed to Establish that R.C. 2969.21 Through R.C. 2969.27 Have Deprived Her of Certain Constitutional Rights

{¶ 12} In her first argument, Justice challenges the constitutionality of R.C. 2969.21 through 2969.27 on the grounds that those statutes violate inmates' rights to equal protection, due process, and redress, and in her third argument, she challenges the constitutionality of R.C. 2969.25(B) on the ground that that provision impedes inmates' access to the courts. Appellees argue that Justice must overcome the presumption that the statutes she challenges are constitutional, *see State v. Carswell*, 2007-Ohio-3723, ¶ 6, and that before this court may declare any statutes challenged by Justice as unconstitutional, "it must appear beyond a

reasonable doubt that the legislation and constitutional provisions are clearly incompatible, *State ex rel. Dickman v. Defenbacher*, 164 Ohio St. 142 (1955), paragraph one of the syllabus.

{¶ 13} Notably, R.C. 2969.25(A) is the only provision of R.C. Ch. 2969 applied by the Second District to the facts of these cases. To the extent that Justice challenges the constitutionality of other provisions of that chapter of the Revised Code—including R.C. 2969.25(B)—it appears that she seeks a declaratory judgment. *See* R.C. 2721.03 (establishing the remedy of declaratory judgment to permit persons whose rights, status, or other legal relations are affected by a statute to seek a determination regarding the validity of the statute). But neither the court of appeals nor this court has original jurisdiction over declaratory-judgment actions. *See, e.g.*, *State ex rel. Ohio Civ. Serv. Emps. Assn., AFSCME, Local 11, AFL-CIO v. State Emp. Relations Bd.*, 2004-Ohio-6363, ¶ 11. Therefore, these appeals are not the proper vehicle for Justice to seek such relief with respect to any provision of R.C. Ch. 2969 other than R.C. 2969.25(A).

{¶ 14} Justice alleges that R.C. Ch. 2969 targets a select class of litigants—inmates—in violation of the Fourteenth Amendment to the United States Constitution and Article I, Section 2 of the Ohio Constitution in imposing additional procedural burdens for filing civil actions and appeals. And she contends that the procedural burdens created by R.C. 2969.25 deprive inmates of access to the courts and the right to a remedy, both of which are conferred by Article I, Section 16 of the Ohio Constitution.

{¶ 15} Inmates are not a suspect class for equal-protection purposes. *State v. Williams*, 2000-Ohio-428, ¶ 68 ("the only classifications recognized as 'suspect' are those involving race, alienage, and ancestry"). "[A] statutory classification that neither proceeds along suspect lines nor infringes fundamental constitutional rights must be upheld against equal protection challenge if there is any reasonably conceivable state of facts that could provide a rational basis for the classification."

Federal Communications Comm. v. Beach Communications, Inc., 508 U.S. 307 (1993). "The filing requirements of R.C. 2969.25(A) were formulated to restrict abusive litigation by inmates which would impair judicial efficiency," and therefore, "[t]he purpose of the filing requirements of R.C. 2969.25(A) is to protect our judicial system from frivolous law suits commenced by inmates." Accordingly, Justice's equal-protection argument is without merit.

{¶ 16} Justice has failed to establish that the requirements imposed on inmates by R.C. 2969.25(A) have deprived her of her rights to due process, to redress, or to access the courts. The requirements set forth in that statutory provision are basic procedural requirements that an inmate must satisfy to file a civil suit against a government entity or employee. *See Jones v. Galloway*, 2026-Ohio-1250, ¶ 10. And nothing precludes Justice from refiling her mandamus petitions with the required affidavit describing each civil action she has filed in the previous five years. *See, e.g.*, *State ex rel. Mason v. Supervisor of Edn., Warren Corr. Inst.*, 2025-Ohio-4803, ¶ 12 ("dismissals for the failure to satisfy the affidavit requirements of R.C. 2969.25(A) must be without prejudice").

{¶ 17} Justice has failed to establish that she has been deprived of her rights to equal protection, to due process, to redress, or to access the courts based on the Second District's dismissal of her mandamus actions for failure to comply with R.C. 2969.25(A). She also improperly seeks a declaratory judgment with respect to other provisions of R.C. Ch. 2969. We therefore reject Justice's first and third arguments.

B. Justice's Argument That It Was Impossible for Her to Comply with R.C. 2969.25(A) Would Require Us to Consider Evidence Outside the Record

{¶ 18} In her second argument, Justice asserts that R.C. 2969.25(A) requires an inmate to "perform an impossibility of law" to seek redress, a remedy, and justice. Justice asserts that it is impossible for an inmate to submit an affidavit containing 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 as required by R.C. 2969.25(A) because the statutory provision requires the inmate to (1) provide information that may be acquired only from court dockets, which DRC policy prevents inmates from accessing, (2) attest to the accuracy of that information, though the inmate has no means to verify that the statements are true and accurate, and (3) have the affidavit notarized when, according to Justice, DRC policies do not require detention facilities to make notary services available to inmates.

{¶ 19} To establish the alleged lack of access to a notary as an inmate, Justice submitted with her merit briefs six exhibits that appear to be copies of electronic kites[4] sent by a DCI inmate to prison staff at DCI from October through December 2025 seeking access to notary services and the DCI staff's responses sent by return kite. Justice also submitted two exhibits purporting to demonstrate that inmates have no access to online court dockets. But none of those exhibits were part of the records below.

{¶ 20} It is well established that "a reviewing court cannot add matter to the record before it and then decide the appeal on the basis of the new matter." *Mason*, 2025-Ohio-4803, at ¶ 8. We reject Justice's second argument because entertaining that argument would require us to consider materials outside the records in these cases.

C. Despite Justice's Assertions to the Contrary, Ohio Law Is Clear: Mandamus Is a Civil Action

{¶ 21} In her fourth argument, Justice contends that the Second District's application of R.C. 2969.25(A) to "common law" mandamus actions constitutes an unconstitutional expansion of the statutory provision, which by its terms applies to

4. "A kite is a type of written correspondence between an inmate and prison staff." *State ex rel. Griffin v. Szoke*, 2023-Ohio-3096, ¶ 3.

civil actions or appeals that an inmate commences.[5]

{¶ 22} This court has long recognized that "'[n]o one has a vested right in rules of the common law. . . . The great office of statutes is to remedy defects in the common law as they are developed, and to adapt it to new circumstances.'" (Ellipsis in original.) *Ruther v. Kaiser*, 2012-Ohio-5686, ¶ 13, quoting *Fassig v. State ex rel. Turner*, 95 Ohio St. 232, 248 (1917), *overruled on other grounds by Griffin v. Hydra-Matic Div., Gen. Motors Corp.*, 39 Ohio St.3d 79 (1988). Indeed, in *Ruther*, this court recognized that "the General Assembly has the right to determine what causes of action the law will recognize and to alter the common law by abolishing the action, by defining the action, or by placing a time limit after which an injury is no longer a legal injury." *Id.* at ¶ 14.

{¶ 23} The General Assembly first codified "proceedings upon mandamus" in 1853 when it passed an act to establish the "Code of Civil Procedure of the State of Ohio." 51 Ohio Laws 57, 156. Therein, the legislature set forth when a writ of mandamus may be issued and for what purpose, defined the contours of the writ, and set forth the procedure by which a relator may seek the writ. *Id.* And since that time, Ohio statutes and our caselaw have recognized that mandamus is a civil action.

{¶ 24} In 1878, the General Assembly revised and consolidated Ohio's laws—including laws relating to mandamus actions. *See* S.B. No. 115, 75 Ohio Laws 597, 811-814 (codifying statutory law pertaining to mandamus actions into the Revised Statutes). *Compare* former G.C. 12283 through 12302 (statutes pertaining to mandamus actions after the General Assembly revised and consolidated the general statutes of Ohio into the General Code in 1910);

5. Justice raises additional arguments that are difficult to understand and appear to go far afield of the Second District's dismissal of her petitions for writs of mandamus by including issues related to political-subdivision tort liability under R.C. Ch. 2744, sovereign immunity, and unconstitutional seizure, arrest, and conveyance of persons into slavery. We decline to address those arguments.

R.C. Ch. 2731 (current statutes pertaining to mandamus actions). In *State ex rel. Morgenthaler v. Crites*, this court recognized that the 1878 changes codified as R.S. 6748 and 6749 "permit[ed] the same pleadings in *mandamus* as in civil actions." (Italics in original.) 48 Ohio St. 142, 175 (1891). This court further noted that R.S. 6751 then provided that "'the pleadings [would] have the same effect, and [would] be construed, and [could] be amended, as in civil actions,'" while R.S. 6752 provided that "'issues of fact made by the pleadings must be tried, and further proceedings thereon had, in the same manner as in civil actions.'" *Morgenthaler* at 175. *Compare* R.C. 2731.09 (containing substantially similar language as former R.S. 6751 and 6752 combined). Recognizing that "[t]he pleadings, their construction and amendment, the mode of trial, and other proceedings in *mandamus*, [were] all declared by [R.S. 6752] to be 'the same' 'as in civil actions,'" this court concluded, "[I]t is difficult to say wherein a proceeding in mandamus differs in any material respect from a civil action, or even in any respect except in name." (Italics in original.) *Id*.

{¶ 25} Relying in part on the holding in *Morgenthaler*, in *State ex rel. Barker v. Philbrick*, this court held that a mandamus action is a civil action, a final judgment of which may be appealed under a statute providing for appeals of civil actions over which the common pleas court had original jurisdiction and for which there was no right to demand a jury. 69 Ohio St. 283 (1903). And in *State ex rel. Cope v. Cooper*, this court stated: "It is not doubted that in some jurisdictions a mandamus proceeding still partakes of the same characteristics that it originally acquired as a high prerogative writ issued by the king. It is quite certain, however, that in most jurisdictions mandamus is regarded as a civil action, in no wise different from other civil actions." 121 Ohio St. 519, 521 (1930).

{¶ 26} More recently, in *State ex rel. Wilson v. Preston*, this court held that "[a]n action in mandamus is a civil action," 173 Ohio St. 203 (1962), paragraph one of the syllabus, and that the summary-judgment procedure for civil actions set forth

in former R.C. 2311.041 (now Civ.R. 56), applies to mandamus actions, *id*. at paragraphs three and four of the syllabus.

{¶ 27} Because this court has long held that mandamus actions are civil actions, there is no merit to Justice's argument that the application of R.C. 2969.25(A) to her writ actions constitutes an unconstitutional expansion of the statutory provision into a type of action that is not specifically identified in the statute. We therefore reject Justice's fourth argument.

III. CONCLUSION

{¶ 28} We sua sponte consolidate Supreme Court case Nos. 2026-0268 and 2026-0269 for purposes of decision and, for the foregoing reasons, we affirm the judgments of the Second District Court of Appeals.

Judgments affirmed.

Monica G. Justice, pro se.

D. Andrew Wilson, Ohio Attorney General, and Drew Smith and Adam Beckler, Assistant Attorneys General, for appellees in case No. 2026-0268.

D. Andrew Wilson, Ohio Attorney General, and Mallory Buelow and Mindy Worly, Assistant Attorneys General, for appellees in case No. 2026-0269.
