

[Cite as *State ex rel. Sheridan v. Horton*, 2011-Ohio-1595.]

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

[State ex rel.] Solomon T. Sheridan et al., :
Relators, :
v. : No. 10AP-219
[Timothy] T. Horton, Judge, Franklin : (REGULAR CALENDAR)
County Court of Common Pleas, :
Respondent. :
:

D E C I S I O N

Rendered on March 31, 2011

Solomon T. Sheridan, pro se.

Ron O'Brien, Prosecuting Attorney, and *R. Matthew Colon*,
for respondent.

IN PROCEDENDO
ON OBJECTIONS TO THE MAGISTRATE'S DECISION

KLATT, J.

{¶1} Relator, Solomon T. Sheridan, acting pro se, commenced this original action seeking a writ of procedendo against respondent, Timothy T. Horton, a Judge of the Franklin County Court of Common Pleas. Respondent has filed a motion to dismiss this action on grounds that relator failed to comply with the filing requirements set forth in R.C. 2969.25.

{¶2} Pursuant to Civ.R. 53 and Loc.R. 12(M) of the Tenth District Court of Appeals, this matter was referred to a magistrate who issued a decision, including findings of fact and conclusions of law, which is appended hereto. The magistrate found that relator failed to file an affidavit that satisfied the requirements of R.C. 2969.25(A). Therefore, the magistrate has recommended that we grant respondent's motion to dismiss relator's complaint.

{¶3} Although relator has filed objections to the magistrate's decision, he concedes that his action should be dismissed for failure to comply with R.C. 2969.25. We agree. As noted by the magistrate, compliance with R.C. 2969.25 is mandatory and failure to satisfy the statutory requirements is grounds for dismissal. Because relator concedes that he failed to comply with R.C. 2969.25, this action must be dismissed. Therefore, we overrule relator's objections.

{¶4} Following an independent review of this matter, we find that the magistrate has properly determined the facts and applied the appropriate law. Therefore, we adopt the magistrate's decision as our own, including the findings of fact and conclusions of law contained therein. In accordance with the magistrate's decision, we grant respondent's motion to dismiss and deny relator's request for a writ of procedendo.

*Objections overruled; motion to dismiss granted; and
writ of procedendo denied.*

FRENCH and CONNOR, JJ., concur.

APPENDIX

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

[State ex rel.] Solomon T. Sheridan et al.,	:	
Relators,	:	
v.	:	No. 10AP-219
[Timothy] T. Horton, Judge, Franklin County Court of Common Pleas,	:	(REGULAR CALENDAR)
Respondent.	:	
	:	

MAGISTRATE'S DECISION

Rendered on December 29, 2010

Solomon T. Sheridan, pro se.

*Ron O'Brien, Prosecuting Attorney, and R. Matthew Colon,
for respondent.*

IN PROCEDENDO
ON RESPONDENT'S MOTION TO DISMISS

{¶5} In this original action, relator, Solomon T. Sheridan, an inmate of the Correction Reception Center, requests that a writ of procedendo issue against respondent, the Honorable Timothy T. Horton, a Judge of the Franklin County Court of Common Pleas.

Findings of Fact:

{¶6} 1. On March 9, 2010, relator, acting pro se, filed this original action against respondent. In his complaint, relator unsuccessfully attempts to name Solomon D. Sheridan and Shawn D. Sheridan as relators to this action. Although relator signed his complaint, neither Solomon D. Sheridan nor Shawn D. Sheridan have signed the complaint, nor has an attorney signed the complaint who claims to represent Solomon D. Sheridan or Shawn D. Sheridan in this action. See Civ.R. 11.

{¶7} 2. On April 21, 2010, relator filed an affidavit of indigency following the magistrate's April 9, 2010 order that relator either tender the filing fee or submit an affidavit of indigency.

{¶8} 3. Relator has not filed a statement of the amount in his inmate account for the preceding six months, as certified by the institutional cashier. R.C. 2969.25(C).

{¶9} 4. Relator did not file, at the time he commenced this civil action, or at any subsequent time, an affidavit listing each civil action or appeal that he has filed in the past five years, providing specific information regarding each action or appeal. R.C. 2969.25(A).

{¶10} 5. On May 20, 2010, respondent moved to dismiss this action on grounds that relator failed to comply with the filing requirements of R.C. 2969.25. Respondent also moved for leave to file his motion to dismiss. The magistrate granted leave on May 26, 2010.

{¶11} 6. On June 4, 2010, relator filed a document captioned "Relator(s) Motion to Dismiss Respondent's Request for Leave." This document is relator's only response to respondent's May 20, 2010 motion to dismiss.

Conclusions of Law:

{¶12} It is the magistrate's decision that this court grant respondent's motion to dismiss.

{¶13} Under R.C. 2969.25(C), an inmate who seeks waiver of prepayment of the filing fees in a civil action brought against a government entity or employee, must file an affidavit that includes: (1) a statement of the amount in his inmate account for the preceding six months, as certified by the institutional cashier; and (2) a statement of all other cash and things of value owned by the inmate.

{¶14} R.C. 2969.25(A) requires an inmate to file, at the time he commences a civil action against a government entity or employee, an affidavit listing each civil action or appeal that he has filed in the past five years, providing specific information regarding each action or appeal.

{¶15} Compliance with the provisions of R.C. 2969.25 is mandatory and failure to satisfy the statutory requirements is grounds for dismissal of the action. *State ex rel. Washington v. Ohio Adult Parole Auth.* (1999), 87 Ohio St.3d 258; *State ex rel. Zanders v. Ohio Parole Bd.* (1998), 82 Ohio St.3d 421; *State ex rel. Alford v. Winters* (1997), 80 Ohio St.3d 285.

{¶16} Relator's failure to comply with the mandatory requirements of R.C. 2969.25 is grounds for dismissal of the instant mandamus action.

{¶17} Accordingly, it is the magistrate's decision that this court grant respondent's motion to dismiss.

s/s Kenneth W. Macke
KENNETH W. MACKE
MAGISTRATE

NOTICE TO THE PARTIES

Civ.R. 53(D)(3)(a)(iii) provides that a party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ.R. 53(D)(3)(b).