

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State ex rel. Vincent Alan Parker,	:	
Relator,	:	
v.	:	No. 22AP-752
Ohio Adult Parole Authority,	:	(REGULAR CALENDAR)
Respondent.	:	

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D E C I S I O N

Rendered on July 25, 2023

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**On brief:** *Vincent Alan Parker*, pro se.

**On brief:** *Dave Yost*, Attorney General, and *George Horvath*,  
for respondent.

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IN MANDAMUS  
ON RESPONDENT’S MOTION TO DISMISS

EDELSTEIN, J.

{¶ 1} Relator, Vincent Alan Parker,<sup>1</sup> has filed this original action seeking a writ of mandamus ordering respondent, the Ohio Adult Parole Authority (“parole authority”), to provide records consistent with the obligations imposed by Ohio’s Public Records Act, R.C. 149.43. The parole authority has filed a motion to dismiss pursuant to Civ.R. 12(B)(1), Civ.R. 12(B)(6), and/or R.C. 2969.25(A).

{¶ 2} For the foregoing reasons, we adopt the magistrate’s decision (as described below), dismiss Mr. Parker’s complaint, and deny the requested writ of mandamus.

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<sup>1</sup> Although relator’s name is stated as “Vincent Alan Parker” in the case caption, numerous prior actions brought by Mr. Parker reveal an assortment of variations of his name, including Vincent E. Parker Bey. (*See, e.g.*, Dec. 8, 2022 Aff. of Prior Actions.)

## I. BACKGROUND

{¶ 3} In March 2022, Mr. Parker, an inmate of an Ohio correctional institution, submitted a public records request to the parole authority via Certified U.S. Mail asking for “a copy of the journal entry of conviction [in] case number CR 320034 and any e-mails, memorandums[,] or correspondence in connection with case number CR 320034 from February 2003 to July 2003.” (Dec. 8, 2022 Compl., Ex. A.) The parole authority received Mr. Parker’s request on March 14, 2022. (Compl., Ex. B; Compl., Ex. C.) According to Mr. Parker, his public records request was denied because the parole authority never responded to it. (*See* Compl. at ¶ 8-13.)

{¶ 4} Mr. Parker commenced this action on December 8, 2022, seeking a writ of mandamus compelling the parole authority “to make the requested records available for inspection and copying without further delay.” (Compl. at ¶ 12.) Mr. Parker filed an affidavit of indigency and an affidavit of prior actions contemporaneous with his mandamus complaint.

{¶ 5} Pursuant to Loc.R. 13(M) of the Tenth District Court of Appeals and Civ.R. 53, we referred this matter to a magistrate of this court on December 13, 2022.

{¶ 6} On December 23, 2022, the parole authority moved to dismiss Mr. Parker’s complaint seeking a writ of mandamus under Civ.R. 12(B)(1) and 12(B)(6). It argued dismissal was warranted because Mr. Parker’s affidavit of prior actions failed to fully comply with the mandates of R.C. 2969.25(A). (*See* Dec. 23, 2022 Mot. to Dismiss.) When an inmate of an Ohio correctional institution initiates an action against a government entity, R.C. 2969.25(A) requires the person to provide specific information about prior actions they have filed along with their complaint. Mr. Parker did not file a timely written response to the parole authority’s motion to dismiss.<sup>2</sup>

{¶ 7} On January 20, 2023, the assigned magistrate issued a decision with findings of fact and conclusions of law, which is appended hereto. In that decision, the magistrate determined Mr. Parker’s obligatory affidavit of prior actions, which was filed with his

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<sup>2</sup> On January 24, 2023, Mr. Parker filed a written response to the parole authority’s motion to dismiss. (Jan. 24, 2023 Combined Resp. to Mot. to Dismiss and Mot. for Summ. Jgmt.) This response was not timely filed. *See* Civ.R. 6(C)(1) (“Responses to a written motion, other than motions for summary judgment, may be served within fourteen days after service of the motion.”); Civ.R. 6(D) (“Whenever a party has the right \* \* \* to do some act \* \* \* within a prescribed period after the service of a notice or other document upon that party and the notice or paper is served upon that party by mail \* \* \* three days shall be added to the prescribed period.”). Mr. Parker’s response to the parole authority’s motion to dismiss was filed, without leave of court, after the magistrate rendered his decision on that motion.

complaint, failed to comply with the mandatory filing requirements set forth in R.C. 2969.25(A) in several respects. Thus, the magistrate has recommended we grant the parole authority's motion to dismiss, dismiss the complaint, and deny Mr. Parker's complaint requesting a writ of mandamus.<sup>3</sup>

{¶ 8} Mr. Parker has not filed objections to the magistrate's decision.<sup>4</sup> "If no timely objections are filed, the court may adopt a magistrate's decision unless it determines that there is an error of law or other defect evident on the face of the decision." Civ.R. 53(D)(4)(c).

## II. ANALYSIS

{¶ 9} R.C. 2969.25(A) requires an inmate who commences a civil action against a governmental entity or employee in a court of appeals to file with his complaint an affidavit describing all civil actions and appeals of civil actions he has filed in any state or federal court in the previous five years. *See also State ex rel. Bey v. Bur. of Sentence Computation*, 166 Ohio St.3d 497, 2022-Ohio-236, ¶ 13. The affidavit must include the following: "(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 the civil action or appeal[.]" R.C. 2969.25(A).

{¶ 10} The affidavit of prior actions must strictly comply with R.C. 2969.25(A)'s dictates. *See, e.g., Westerfield v. Bracy*, \_\_\_\_ Ohio St.3d \_\_\_\_, 2023-Ohio-499, ¶ 6, citing *State ex rel. Steele v. Foley*, 164 Ohio St.3d 540, 2021-Ohio-2073, ¶ 7. *See also Bey* at ¶ 20, citing *State ex rel. Swanson v. Ohio Dept. of Rehab. & Corr.*, 156 Ohio St.3d 408, 2019-Ohio-1271, ¶ 6. Thus, an inmate's noncompliance with any of R.C. 2969.25(A)'s statutory requirements "is fatal and provides a sufficient basis for dismissing a petition." *Westerfield* at ¶ 6, quoting *Steele* at ¶ 7. *See also Bey* at ¶ 13, citing *State v. Henton*, 146 Ohio St.3d 9, 2016-Ohio-1518, ¶ 3.

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<sup>3</sup> After the magistrate's decision was rendered on January 20, 2023, but before Mr. Parker moved for an extension of time to file objections to the magistrate's decision on February 13, 2023, Mr. Parker moved for summary judgment. (Combined Resp. to Mot. to Dismiss and Mot. for Summ. Jgmt.) We do not address that motion because the magistrate's substantive decision and ruling on the motion to dismiss mooted all matters raised in the summary judgment motion.

<sup>4</sup> Although Mr. Parker moved for an extension of time to file his objections (Feb. 13, 2023 Mot.) and the magistrate granted that motion (Feb. 14, 2023 Journal Entry), Mr. Parker ultimately did not file any objections to the magistrate's January 20, 2023 decision.

{¶ 11} A statutorily compliant affidavit of prior actions is therefore “an essential component of what an inmate-plaintiff must file to commence a civil action against a public employee or entity.” *Bey* at ¶ 19. Accordingly, a government defendant can seek dismissal of such civil action based on noncompliance with R.C. 2969.25(A). *See id.*; *Westerfield* at ¶ 6. And an inmate’s civil action against a governmental entity can be dismissed by the presiding appellate court, sua sponte, on this basis. *Bey* at ¶ 19, citing *State ex rel. Watkins v. Andrews*, 142 Ohio St.3d 308, 2015-Ohio-1100, ¶ 3.

{¶ 12} The magistrate recommended dismissal of this case because he found that Mr. Parker’s affidavit of prior actions failed to strictly comply with R.C. 2969.25(A)(2) and (3).<sup>5</sup>

{¶ 13} R.C. 2969.25(A)(3) requires the affidavit of prior actions list “the name of **each party** to the civil action or appeal.” (Emphasis added.) Merely listing some parties (e.g., those mentioned in the case caption) does not constitute strict compliance with that provision. *See, e.g., Bey* at ¶ 14. “These omissions render[ ] the affidavit defective and require[ ] dismissal of the complaint.” *Id.*, citing *Taylor v. Harris*, 159 Ohio St.3d 564, 2020-Ohio-1046, ¶ 10 (affirming dismissal of inmate suit because affidavit of prior civil actions “failed to provide for each action the case name and number, the court in which it was brought, and the outcome of the case”).

{¶ 14} We agree with the magistrate’s finding that Mr. Parker’s affidavit of prior actions did not comply with R.C. 2969.25(A)(3). In at least two instances, Mr. Parker failed to list the names of **all** opposing parties in the civil actions or appeals he initiated within the last five years. (*See Jan. 20, 2023 Mag.’s Decision* at 4-7.)

{¶ 15} The magistrate also found Mr. Parker’s affidavit of prior actions failed to comply with R.C. 2969.25(A)(2). (*Mag.’s Decision* at 7.) Because failure to comply with one of R.C. 2969.25(A)’s requirements is fatal, and having already found noncompliance as to R.C. 2969.25(A)(3), we decline to adopt the magistrate’s findings as to this provision.

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<sup>5</sup> In its motion to dismiss, the parole authority also contended that Mr. Parker’s affidavit of prior actions failed to satisfy the requirements of R.C. 2969.25(A)(1) and (4). The magistrate did not consider those arguments, however, because his findings of noncompliance with R.C. 2969.25(A)(2) and (3) were dispositive of the issue. (*See Jan 20, 2023 Mag.’s Decision* at 7.)

### III. CONCLUSION

{¶ 16} Having conducted an examination of the magistrate's decision, pursuant to Civ.R. 53(D)(4)(d), we find the magistrate properly applied the relevant law to the salient facts when he reached the conclusion that Mr. Parker's mandamus complaint should be dismissed because Mr. Parker failed to strictly comply with R.C. 2969.25(A)(3) in his affidavit of prior civil actions. Finding no error of law or other defect on the face of the magistrate's decision, this court adopts the magistrate's decision as to R.C. 2969.25(A)(3) as our own, including the findings of fact and conclusions of law contained therein. However, we decline to adopt the portions of the magistrate's decision addressing Mr. Parker's failure to comply with R.C. 2969.25(A)(2).

{¶ 17} Based on the foregoing, we grant the parole authority's motion to dismiss, deny Mr. Parker's request for a writ of mandamus, and dismiss this action in mandamus.

*Motion to dismiss granted;  
writ of mandamus denied.*

LUPER SCHUSTER and MENTEL, JJ., concur.

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**APPENDIX**

## IN THE COURT OF APPEALS OF OHIO

## TENTH APPELLATE DISTRICT

State ex rel. Vincent Alan Parker,	:	
Relator,	:	
v.	:	No. 22AP-752
Ohio Adult Parole Authority,	:	(REGULAR CALENDAR)
Respondent.	:	

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MAGISTRATE'S DECISIONRendered on January 20, 2023

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*Vincent Alan Parker, pro se.**Dave Yost, Attorney General, and George Horvath, for respondent.*

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IN MANDAMUS  
ON RESPONDENT'S MOTION TO DISMISS

{¶ 18} Relator, Vincent Alan Parker, has filed this original action seeking a writ of mandamus ordering respondent, Ohio Adult Parole Authority, to provide records consistent with the obligations imposed by Ohio's Public Records Act, R.C. 149.43. Respondent has filed a motion to dismiss pursuant to Civ.R. 12(B)(1) and (6).

Findings of Fact:

{¶ 19} 1. Relator is incarcerated at the Richland Correctional Institution in Mansfield, Ohio at the time of the filing of this action.

{¶ 20} 2. Respondent is an administrative unit of the Ohio Department of Rehabilitation and Correction.

{¶ 21} 3. In his complaint, relator alleges he made a public records request directed to respondent on or about March 3, 2022. Relator alleges he sought e-mails, memoranda, and correspondence in connection with a journal entry. Respondent allegedly did not respond to the request. (Compl. at 2.)

{¶ 22} 4. Relator filed a complaint in mandamus in the instant action on December 8, 2022. In his complaint, relator alleges respondent violated R.C. 149.43 by failing to respond to his public records request. Relator asserts he is entitled to the issuance of a writ of mandamus ordering respondent to provide the requested records or a written explanation for denying the request. (Compl. at 2.) Relator also seeks statutory damages pursuant to R.C. 149.43(C)(1).

{¶ 23} 5. On December 23, 2022, respondent filed a motion to dismiss, pursuant to Civ.R. 12(B)(1) and (6), alleging that relator failed to fully comply with R.C. 2969.25(A).

{¶ 24} 6. Relator has not responded to respondent's December 23, 2022 motion to dismiss.

#### Discussion and Conclusions of Law:

{¶ 25} A court is required to grant a motion to dismiss pursuant to Civ.R. 12(B)(1) where the court lacks jurisdiction over the subject matter of the litigation. *T & M Machines, LLC v. Yost*, 10th Dist. No. 19AP-124, 2020-Ohio-551, ¶ 9. “ ‘ Subject-matter jurisdiction of a court connotes the power to hear and decide a case upon its merits.’ “ *State ex rel. Ohio Democratic Party v. Blackwell*, 111 Ohio St.3d 246, 2006-Ohio-5202, ¶ 8, quoting *Morrison v. Steiner*, 32 Ohio St.2d 86, 87 (1972), paragraph one of the syllabus. Subject-matter jurisdiction is a “ ‘ condition precedent to the court's ability to hear the case. If a court acts without jurisdiction, then any proclamation by that court is void.’ “ *Pratts v. Hurley*, 102 Ohio St.3d 81, 2004-Ohio-1980, ¶ 11, quoting *State ex rel. Tubbs Jones v. Suster*, 84 Ohio St.3d 70, 75 (1998). In ruling on a motion to dismiss pursuant to Civ.R. 12(B)(1), a court may consider evidence outside of the complaint. *Cerrone v. Univ. of Toledo*, 10th Dist. No. 11AP-573, 2012-Ohio-953, ¶ 5, citing *Southgate Dev. Corp. v. Columbia Gas Transm. Corp.*, 48 Ohio St.2d 211 (1976), paragraph one of the syllabus.

{¶ 26} A motion to dismiss for failure to state a claim pursuant to Civ.R. 12(B)(6) is procedural and tests the sufficiency of the complaint itself and any attached documents. *State ex rel. Hanson v. Guernsey Cty. Bd. of Commrs.*, 65 Ohio St.3d 545 (1992), citing

*Assn. for Defense of Washington Local School Dist. v. Kiger*, 42 Ohio St.3d 116, 117 (1989). Attachments to the complaint are considered part of the complaint for all purposes. Civ.R. 10(C).

{¶ 27} A court must presume all factual allegations contained in the complaint to be true and make all reasonable inferences in favor of the nonmoving party. *Red Foot Racing Stables v. Polhamus*, 10th Dist. No. 19AP-390, 2020-Ohio-592, ¶ 11, citing *State ex rel. Turner v. Houk*, 112 Ohio St.3d 561, 2007-Ohio-814, ¶ 5. “Before the court may dismiss the complaint, it must appear beyond doubt from the complaint that the plaintiff can prove no set of facts entitling the plaintiff to recovery.” *Jones v. Dann*, 10th Dist. No. 09AP-352, 2009-Ohio-5976, ¶ 9, citing *O’Brien v. Univ. Community Tenants Union, Inc.*, 42 Ohio St.2d 242 (1975), syllabus. Provided there is a set of facts, consistent with the complaint, under which the complaining party could recover, a court may not grant a motion to dismiss for failure to state a claim. *Prime Invests., LLC v. Altimate Care, LLC*, 10th Dist. No. 20AP-526, 2022-Ohio-1181, ¶ 23, citing *York v. Ohio State Hwy. Patrol*, 60 Ohio St.3d 143, 145 (1991). However, a court need not accept as true any unsupported and conclusory legal propositions presented in the complaint. *Bullard v. McDonald’s*, 10th Dist. No. 20AP-374, 2021-Ohio-1505, ¶ 11, citing *Morrow v. Reminger & Reminger Co. LPA*, 183 Ohio App.3d 40, 2009-Ohio-2665, ¶ 7 (10th Dist.).

{¶ 28} When determining whether a relator’s complaint states a claim for a writ, a court may take judicial notice of the pleadings and orders in related cases when these are not subject to reasonable dispute insofar as they affect the current original action. Evid.R. 201(B); *State ex rel. Ohio Republican Party v. Fitzgerald*, 145 Ohio St.3d 92, 2015-Ohio-5056, ¶ 18; *State ex rel. Womack v. Marsh*, 128 Ohio St.3d 303, 2011-Ohio-229, ¶ 8. “Ohio courts may take judicial notice in ‘writ action[s] without converting \* \* \* [a] dismissal motion to a motion for summary judgment.’ “ *State ex rel. Mobley v. O’Donnell*, 10th Dist. No. 20AP-193, 2021-Ohio-715, ¶ 9, quoting *State ex rel. Nelson v. Russo*, 89 Ohio St.3d 227, 228 (2000). See *Pearson v. Columbus*, 10th Dist. No. 14AP-313, 2014-Ohio-5563, ¶ 17, quoting *State ex rel. Everhart v. McIntosh*, 115 Ohio St.3d 195, 2007-Ohio-4798, ¶ 10 (stating that a court is permitted to “take judicial notice of ‘appropriate matters’ in determining a Civ.R. 12(B)(6) motion without converting it to a motion for summary judgment”).



{¶ 29} The sole question presented at this time is whether relator has complied with the mandatory provisions of R.C. 2969.25. R.C. 2969.25(A) provides procedural requirements for inmates commencing a civil action or appeal against a government entity or employee. *See State ex rel. Foster v. Foley*, \_\_ Ohio St.3d \_\_, 2022-Ohio-3168, ¶ 10; *State ex rel. Swanson v. Ohio Dept. of Rehab. & Corr.*, 156 Ohio St.3d 408, 2019-Ohio-1271, ¶ 6. Compliance with the requirements of R.C. 2969.25(A) is mandatory, and failure to comply warrants dismissal. *Boles v. Knab*, 129 Ohio St.3d 222, 2011-Ohio-2859, ¶ 1. Furthermore, substantial compliance with the requirements of R.C. 2969.25(A) is not sufficient. *State ex rel. McGlown v. Mohr*, 10th Dist. No. 14AP-478, 2015-Ohio-1554, ¶ 9, citing *State ex rel. Manns v. Henson*, 119 Ohio St.3d 348, 2008-Ohio-4478, ¶ 4.

{¶ 30} Under R.C. 2969.25(A), an inmate commencing a civil action in the court of appeals must file 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.” To comply with R.C. 2969.25(A), the filed affidavit must include all of the following:

- (1) A brief description of the nature of the civil action or appeal;
- (2) The case name, case number, and the court in which the civil action or appeal was brought;
- (3) The name of each party to the civil action or appeal;
- (4) The outcome of the civil action or appeal, including whether the court dismissed the civil action or appeal as frivolous or malicious under state or federal law or rule of court, whether the court made an award against the inmate or the inmate’s counsel of record for frivolous conduct under section 2323.51 of the Revised Code, another statute, or a rule of court, and, if the court so dismissed the action or appeal or made an award of that nature, the date of the final order affirming the dismissal or award.

R.C. 2969.25(A). *See Swanson* at ¶ 5. Here, relator filed with his complaint an affidavit containing the following information:

In accordance with and pursuant to [R.C.] 2969.25(A), affiant states that within the last five-year period, he has filed thirteen (13) prior civil actions which are:

- (1) *Parker v. Ohio Rehabilitation & Corrections* Case Number 2017-Ohio-7415 filed in the Ohio Court of Claims for a bailment issue, Parker prevailed.
- (2) *State ex rel Parker v. Russo*, case number 2018-0147, Original Action in Mandamus that was filed in the Supreme

Court of Ohio, (Mandamus filed to compel judge Russo to issue a valid final Appealable Order), writ was denied.

(3) State ex rel Parker v. Russo, Original Action in Mandamus, which was filed in the Eighth District Court of Appeals, case number CA-18-107686, writ denied, appeal denied, motion to reconsider denied, (Mandamus filed to compel judge Russo to issue final appealable order.)

(4) State ex rel Parker Bey v. Bracy, State Writ of Habeas Corpus pursuant to Title 27, filed in the Eleventh District Court of Appeals, case number 2018-TR-0090, (writ filed to challenge unlawful confinement), writ denied, appeal denied, and Motion to reconsider denied.

(5) State ex rel Parker Bey v. Byrd, Original Action in Mandamus (Mandamus filed concerning Public Records Request 149.43), filed in the Eighth District Court of Appeals, case number C-84-107909, writ denied, appealed to the Supreme Court of Ohio, which affirmed in part and reversed in part and remanded the case for further proceedings, in case number 2019-0547.

(6) State ex rel Parker Bey v. Loomis et al., Original Action in Mandamus filed in the Eleventh District Court of Appeals, (Concerning Public Records Request pursuant to R.C. 149.43), case number 2019-TR-0035, writ denied, appealed to the Supreme Court of Ohio, which reversed and remanded back to the Eleventh District Court of Appeals, in case number 2019-1240.

(7) State ex rel Parker Bey v. Bureau of Sentence Computation, Original Action in Mandamus filed in the Tenth District Court of Appeals, (Concerning Public Records Request pursuant to R.C. 149.43), case number 2019-AP-0046, writ denied, appealed to the Supreme Court of Ohio, writ denied.

(8) State ex rel Parker Bey v. OAPA, case number 2019-AP-0534, Original Action in Mandamus filed in the Tenth District Court of Appeals, (concerning Public Records Request pursuant to R.C. 149.43), writ denied, appealed to the Supreme Court of Ohio, writ denied.

(9) State ex rel Parker Bey v. Irene Shelton, Original Action filed in the Eleventh District Court of Appeals, case number 2019-TR-0057, (Concerning Public Records Request pursuant to R.C. 149.43) writ dismissed.

(10) State ex rel Parker Bey v. Ohio Court of Claims, Original Action in Verified Complaint for Writ of Mandamus/Civil Forfeiture, filed in the Tenth District Court of Appeals, (concerning Public Records Request pursuant to R.C. 149.43,

and destruction of evidence), case number 2019-AP-0853, writ denied.

(11) *State ex rel Parker Bey v. Brooks*, Original Action in *Procedendo* for failure to rule on Writ of Mandamus, case number 2020-0145, that was filed in the Supreme Court of Ohio, writ denied.

(12) *State ex rel Parker Bey v. Davis*, Original Action in *Procedendo*, for failure to rule on Writ of Mandamus, case number 2020-1435, that was filed in the Supreme Court of Ohio, writ denied.

(13) *Vincent Alan Parker v. Judge Nancy M. Russo et al.*, Declaratory Judgment filed in the Cuyahoga County Court of Common Pleas, (filed for declaration of rights pursuant to a Contract), case number CV-21-955368, action still pending.

(Emphasis removed and spacing added for legibility.) (Compl. at 7-8.)

{¶ 31} Respondent argues that relator failed to comply with several of the requirements under R.C. 2969.25(A). First, respondent argues relator failed to comply with R.C. 2969.25(A)(3) because he did not provide names of all of the opposing parties in some of the cases listed in the affidavit. R.C. 2969.25(A)(3) requires that the inmate's affidavit list "the name of *each party* to the civil action or appeal," not merely those listed in the case caption. (Emphasis added.) R.C. 2969.25(A)(3). *See State ex rel. Ware v. Byrd*, 8th Dist. No. 110865, 2021-Ohio-4432, ¶ 12-13 (finding inmate failed to strictly comply with R.C. 2969.25(A)(3) requirement because affidavit did not "include any name beyond those included in the case captions" although there were multiple respondents in a case filed by an inmate); *State ex rel. Dajuan Banks v. Doe*, 9th Dist. No. 22CA011834, 2022-Ohio-2084, ¶ 5 (finding failure to comply with R.C. 2969.25(A) because the affidavit "fails to identify the parties to all of the prior civil actions, instead listing some of them as 'et al.'"); *State ex rel. Russell v. Ohio Dept. of Rehab. & Corr.*, 161 Ohio St.3d 312, 2020-Ohio-4788, ¶ 8; *State ex rel. Pointer v. Ohio Adult Parole Auth.*, 10th Dist. No. 21AP-412, 2022-Ohio-358, ¶ 8. Here, in at least two instances, relator failed to list the names of each party to the civil action or appeal. First, in the sixth case listed in relator's affidavit, relator listed the opposing party as "Loomis et al.," while the record reveals that relator sought "a writ of mandamus against *respondents*, Julie Loomis, the administrative assistant for the warden of the Trumbull Correctional Institution, *and the Trumbull Correctional Institution.*" (Emphasis added.) *State ex rel. Bey v. Loomis*, 11th Dist. No. 2019-T-0035, 2019-Ohio-

3446.<sup>6</sup> Second, in the thirteenth case listed in relator's affidavit, relator listed the opposing party as "Judge Nancy M. Russo et al.," whereas the docket for that case reflects that relator's complaint included five defendants. Thus, relator failed to comply with the R.C. 2969.25(A)(3) requirement by listing each of the parties in the civil actions or appeals filed by relator within the last five years.

{¶ 32} In addition, relator fails to meet the requirement of R.C. 2969.25(A)(2) to provide case numbers for several of the appeals listed in his affidavit. *See State ex rel. Robinson v. Ohio Adult Parole Auth.*, 10th Dist. No. 16AP-284, 2018-Ohio-2101, ¶ 18 (dismissing action pursuant to R.C. 2969.25(A) because relator failed to provide name of each party in a habeas corpus action and appeal to Supreme Court of Ohio and the case number of the appeal to the Supreme Court of Ohio); *State ex rel. Tayse v. Ross*, 9th Dist. No. 29684, 2020-Ohio-3014, ¶ 3. Although relator appears to have tried to comply with this requirement by providing the Supreme Court case number associated with some of the appeals listed in his affidavit, he did not provide case numbers associated with appeals of the third, fourth, sixth,<sup>7</sup> seventh, and eighth cases listed in his affidavit.

{¶ 33} Respondent also contends relator failed to satisfy R.C. 2969.25(A) because relator did not provide (1) a sufficient description of prior civil actions or appeals of civil actions pursuant to R.C. 2969.25(A)(1); (2) a sufficient listing of case names and originating courts pursuant to R.C. 2969.25(A)(2); and (3) a sufficient description of the outcome of the cases pursuant to R.C. 2969.25(A)(4).<sup>8</sup> Having found relator failed to comply with multiple provisions of R.C. 2969.25(A), it is unnecessary to consider these arguments.

{¶ 34} An inmate's affidavit of prior actions "is an essential component of what an inmate-plaintiff must file to commence a civil action against a public employee or entity." *State ex rel. Bey v. Bur. of Sentence Computation*, 166 Ohio St.3d 497, 2022-Ohio-236, ¶ 19. As evidenced by the resolution of some of the cases listed in his affidavit, relator should be aware of the requirements of R.C. 2969.25(A). *Id.* at ¶ 22 (affirming dismissal of

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<sup>6</sup> The record also reveals that this case involved multiple appeals, although only one is listed by relator. Furthermore, the ultimate outcome of the case does not comport with the outcome listed on relator's affidavit. These deficiencies would also result in a finding that the affidavit insufficiently complied with R.C. 2969.25(A).

<sup>7</sup> As previously noted, relator did not provide a complete listing of the appeals in his sixth case, including both appellate case numbers.

<sup>8</sup> Respondent does not specify which of the cases listed in relator's affidavit fail to meet these requirements, but instead only generally mentions a "number of the cases," "several of the cases," and "several cases." (Respondent's Mot. to Dismiss at 17-19.)

multiple mandamus actions filed by relator for failure to comply with R.C. 2969.25(A) requirements). Regardless, strict compliance with the statute is mandatory, and the failure to comply warrants dismissal. *Id.* at ¶ 13, citing *State v. Henton*, 146 Ohio St.3d 9, 2016-Ohio-1518, ¶ 3. Accordingly, it is the decision and recommendation of the magistrate that respondent's December 23, 2022 motion to dismiss should be granted because relator failed to comply with the mandatory filing requirements of R.C. 2969.25(A).

/S/ MAGISTRATE

JOSEPH E. WENGER IV

#### **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).