

COURT OF APPEALS
MUSKINGUM COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO, EX REL.,	:	JUDGES:
CHARLES NEWMAN	:	
	:	
Relator	:	Hon. W. Scott Gwin, P.J.
-vs-	:	Hon. William B. Hoffman, J.
	:	Hon. Patricia A. Delaney, J.
	:	
JUDGE MARK FLEEGLE	:	
	:	
Respondent	:	CASE NO. CT08-0064
	:	
	:	<u>OPINION</u>

CHARACTER OF PROCEEDING: Petition for Writ of Mandamus

JUDGMENT: WRIT DISMISSED

DATE OF JUDGMENT ENTRY: February 20, 2009

APPEARANCES:

For Relator – pro se:

CHARLES NEWMAN - #546-730
P.O. Box 59
Nelsonville, OH 45764

Delaney, J.,

{¶1} Relator, Charles Newman, has filed a Petition for Writ of Mandamus against Respondent, Judge Mark Fleegle. Relator, an inmate at the Hocking Correctional Facility, complains the trial court failed to grant him credit for the correct amount of jail time served. We need not reach the merits of Relator's Petition because the Petition is fatally defective due to Relator's failure to attach an affidavit detailing Relator's prior civil actions.

{¶2} Revised Code § 2969.25 provides,

{¶3} 2969.25 Multiple actions or appeals filed by inmate; affidavit; review by attorney; fees

{¶4} (A) At the time that an inmate commences a civil action or appeal against a government entity or employee, the inmate shall file with the court an affidavit that contains 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. The affidavit shall include all of the following for each of those civil actions or appeals:

{¶5} (1) A brief description of the nature of the civil action or appeal;

{¶6} (2) The case name, case number, and the court in which the civil action or appeal was brought;

{¶7} (3) The name of each party to the civil action or appeal;

{¶8} (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.

{¶9} A review of the Petition reveals Relator has failed to comply with R.C. 2969.25, which requires Relator to attach an affidavit to the complaint for a writ of mandamus describing each civil action or appeal filed within the previous five years in any state or federal court.

{¶10} The failure to comply with R.C. 2969.25 requires the dismissal of this complaint for writ of mandamus. *State ex rel. Zanders v. Ohio Parole Bd.*, 82 Ohio St.3d 421, 1998-Ohio-218, 696 N.E.2d 594; *Alford v. Winters*, 80 Ohio St.3d 285, 1997-Ohio-117, 685 N.E.2d 1242.

{¶11} For this reason, Relator's Complaint is dismissed.

{¶12} WRIT DISMISSED.

By: Delaney, J.
Gwin, P.J. and
Hoffman, J. concur

HON. PATRICIA A. DELANEY

HON. W. SCOTT GWIN

HON. WILLIAM B. HOFFMAN

