

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

State of Ohio ex rel. Garry N. Savage

Court of Appeals No. L-25-00104

Relator

v.

Tygh M. Tone

DECISION AND JUDGMENT

Respondent

Decided: June 30, 2025

* * * * *

Garry N. Savage, Relator, pro se..

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DUHART, J.

{¶ 1} This case is before the court upon the May 21, 2025 complaint for procedendo filed by relator, Garry N. Savage, against Judge Tygh Tone. Savage alleges that he filed a motion to withdraw a guilty plea in Erie County Case No. 2021 CR 0428, that Judge Tone is the judge on that case, and that the motion has not been ruled on in five months. Savage requests that we issue a writ of procedendo compelling Judge Tone

to rule on Savage’s motion to withdraw his guilty plea. Upon review, we find that Savage’s complaint must be dismissed for the following reasons.

{¶ 2} First, at the time Savage filed his complaint, he was an inmate in a state correctional institution.¹ R.C. 2969.25(A) requires that “[a]t 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.” Failure to comply with R.C. 2969.25(A) warrants dismissal of the complaint. *State ex rel. Guess v. Clark*, 2024-Ohio-1075, ¶ 7 (6th Dist.), citing *State ex rel. Kimbro v. Glavas*, 2002-Ohio-5808. Savage did not file any such affidavit.

{¶ 3} Additionally, 6th Dist.Loc.App.R. 7(A) requires a party filing a complaint for procedendo “deposit the sum of \$100 as security for the payment of the costs that may accrue in the original action, or . . . file an affidavit of his/her inability to do so.” *State v. Johnson*, 2024-Ohio-1511, ¶ 7 (6th Dist.). The failure to comply with 6th Dist.Loc.App.R. 7(A) is grounds for sua sponte dismissal of a complaint for procedendo. *See id.* Here, Savage did not pay the deposit or file an affidavit of indigency.

¹ He listed his address as Lake Erie Correctional Institution.

{¶ 4} For the foregoing reasons,² we dismiss Savage’s complaint and order that he pay the costs of this action. The clerk is directed to serve upon the parties, within three days, a copy of this decision in a manner prescribed by Civ.R. 5(B).

{¶ 5} It is so ordered.

Writ dismissed.

Christine E. Mayle, J.

JUDGE

Gene A. Zmuda, J.

Myron C. Duhart, J.
CONCUR.

JUDGE

JUDGE

<p>This decision is subject to further editing by the Supreme Court of Ohio’s Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court’s web site at: http://www.supremecourt.ohio.gov/ROD/docs/.</p>

² We additionally note that the Savage’s complaint seeks a writ of procedendo against an Erie County judge requesting relief in Erie County, and yet he filed his complaint in Lucas County.