

[Cite as *Cvijetovic v. Cuyahoga Cty. Aud.*, 2011-Ohio-1754.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 96055

ALEKSANDAR CVIJETINOVIC

RELATOR

vs.

CUYAHOGA COUNTY AUDITOR

RESPONDENT

**JUDGMENT:
COMPLAINT DISMISSED**

Writ of Mandamus
Motion No. 439670
Order No. 442432

RELEASE DATE: April 1, 2011

FOR RELATOR

Aleksandar Cvijetinovic, Pro se
Inmate No. 368-271
South Ohio Correctional Facility
P.O. Box 45699
Lucasville, Ohio 45699

FOR RESPONDENT

William D. Mason
Cuyahoga County Prosecutor

BY: Michael A. Dolan
Assistant Prosecuting Attorney
The Justice Center, 8th Floor
1200 Ontario Street
Cleveland, Ohio 44113

LARRY A. JONES, J.:

{¶ 1} On November 22, 2010, the relator, Aleksandar Cvijetinovic, commenced this public records mandamus action against the respondent, the Cuyahoga County Auditor. Cvijetinovic alleges that on September 22, 2010, pursuant to R.C. 149.43, he requested via certified mail that the Cuyahoga County Auditor send him “all campaign finance reports for all

Cuyahoga County Common Pleas Court Judge's [sic] most recent election campaigns.” (Exhibit to complaint.) Cvijetinovic further alleges that the Cuyahoga County Auditor never responded to this request.

{¶ 2} On November 29, 2010, the Cuyahoga County Auditor filed a motion to dismiss on the grounds that the requested records do not come within the jurisdiction of the auditor's office, and, thus, the auditor has no duty to release them. The respondent further noted that Cvijetinovic's September 22, 2010 request was sent to the wrong address, the State of Ohio's office building in Cleveland, instead of the Cuyahoga County office building. Cvijetinovic never opposed this motion.

{¶ 3} R.C. 3517.11(A) provides that the campaign finance reports for common pleas judges shall be filed with the county board of elections. Thus, the county auditor's office does not have jurisdiction over these records.

{¶ 4} R.C. 149.43(B)(1) provides that the right to inspect public records or to obtain copies of them is dependent upon a request to the public office responsible for the public records. Furthermore, the Supreme Court of Ohio has ruled: “When statutes impose a duty on a particular official to oversee records, that official is the ‘person responsible’ within the meaning of the Public Records Act.” *State ex rel. Mothers Against Drunk Drivers v. Gosser* (1985), 20 Ohio St.3d 30, 485 N.E.2d 706, paragraph two of the syllabus. Therefore, because the Cuyahoga County Auditor is not the official responsible for the requested records, the

auditor has no duty to provide copies of those records under R.C. 149.43. *State ex rel. Keating v. Skeldon*, Lucas App. No. L-08-1414, 2009-Ohio-2052; *State ex rel. Austin v. Fuesrt* (Nov. 25, 2003), Cuyahoga App. No. 83253; and *State ex rel. Johnson v. Cuyahoga Cty. Court of Common Pleas* (May 27, 1999), Cuyahoga App. No. 76156.

{¶ 5} Additionally, the relator failed to support his complaint with an affidavit “specifying the details of the claim” as required by Local Rule 45(B)(1)(a). *State ex rel. Leon v. Cuyahoga Cty. Court of Common Pleas*, 123 Ohio St.3d 124, 2009-Ohio-4688, 914 N.E.2d 402; *State ex rel. Wilson v. Calabrese* (Jan. 18, 1996), Cuyahoga App. No. 70077; and *State ex rel. Smith v. McMonagle* (July 17, 1996), Cuyahoga App. No. 70899. In *Leon* the Supreme Court of Ohio upheld this court’s ruling that merely stating in an affidavit that the complaint was true and correct was insufficient to comply with the local rule.

{¶ 6} Accordingly, this court grants the respondent’s motion to dismiss and dismisses the application for a writ of mandamus. Costs assessed against relator. The court directs the clerk of the Eighth District Court of Appeals to serve upon the parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

LARRY A. JONES, JUDGE

KENNETH A. ROCCO, P.J., and
FRANK D. CELEBREZZE, JR., J., CONCUR