

**COURT OF APPEALS OF OHIO**  
**EIGHTH APPELLATE DISTRICT**  
**COUNTY OF CUYAHOGA**

DAVID GOODYKOONTZ,	:	
Relator,	:	
v.	:	No. 114784
JUDGE LAUREN C. MOORE,	:	
Respondent.	:	

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**JOURNAL ENTRY AND OPINION**

**JUDGMENT:** WRIT DENIED  
**DATED:** April 11, 2025

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Writ of Procedendo  
Order No. 582746  
Motion No. 581924

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***Appearances:***

David Goodykoontz, *pro se*.

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and James E. Moss, Assistant Prosecuting Attorney, *for respondent*.

MICHELLE J. SHEEHAN, P.J.:

{¶ 1} David Goodykoontz, the relator, has filed a complaint for a writ of procedendo. Goodykoontz seeks an order from this court that requires Judge Lauren C. Moore, the respondent, to render rulings in *State v. Goodykoontz*, Cuyahoga C.P. Nos. CR-19-641800-A and CR-20-647818-A, with regard to motions for leave to file motions for new trial.<sup>1</sup> Judge Moore has filed a motion for summary judgment that is granted for the following reasons.

{¶ 2} Initially, we find that Goodykoontz's complaint for a writ of procedendo fails to comply with R.C. 2969.25(A) and (C). Specifically, Goodykoontz failed to file an affidavit of prior civil actions as required by R.C. 2969.25(A). In addition, Goodykoontz has failed to provide a certified copy of the institutional cashier's statement, where he is incarcerated, setting forth the balance in this inmate account as required by R.C. 2969.25(C). The requirements of R.C. 2969.25 are mandatory, and the failure to provide this court with an affidavit of prior civil actions and a certified institutional cashier's statement requires dismissal of Goodykoontz's complaint for mandamus. *State ex rel. Washington v. Ohio Adult Parole Auth.*, 87 Ohio St.3d 258 (1999); *State ex rel. Zanders v. Ohio Parole Bd.*, 82 Ohio St.3d 421 (1998). The failure to comply with R.C. 2969.25(A) and (C) cannot be cured by

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<sup>1</sup>Pursuant to Civ.R. 25(D)(1), Judge Lauren C. Moore is substituted for Judge Kathleen Ann Sutula who was originally assigned to *State v. Goodykoontz*, Cuyahoga C.P. Nos. CR-19-641800-A and CR-20-647818-A, and has since retired from the Cuyahoga County Court of Common Pleas.

amendment or later filings. *State ex rel. Watkins v. Andrews*, 2015-Ohio-1100; *Fuqua v. Williams*, 2003-Ohio-5533.

**{¶ 3}** Also, before this court will issue a writ of procedendo, Goodykoontz must show a clear legal right to require Judge Moore to proceed, a clear legal duty on the part of Judge Moore to proceed, and the lack of an adequate remedy in the ordinary course of the law. *State ex rel. Poulton v. Cottrill*, 2016-Ohio-5789; *State ex rel. Sherrills v. Cuyahoga Cty. Court of Common Pleas*, 72 Ohio St.3d 461 (1995). Attached to the motion for summary judgment is the sworn affidavit of the Manager of the Criminal Division of the Cuyahoga County Clerk of Courts wherein it is established that no motion for leave to file a motion for new trial was filed by Goodykoontz in *State v. Goodykoontz*, Cuyahoga C.P. No. CR-19-641800-A or CR-20-647818-A. Goodykoontz has failed to establish that he is entitled to a writ of procedendo.

**{¶ 4}** Finally, a writ of procedendo will not issue to compel a vain act. *State ex rel. Morenz v. Kerr*, 2004-Ohio-6208; *State ex rel. Pedraza v. Kimbler*, 2021-Ohio-993 (9th Dist.). If this court were to grant a writ of procedendo to order Judge Moore to rule on nonexistent motions for a new trial, it would constitute a vain act. *State ex rel. Garnett v. Lyons*, 44 Ohio St.2d 125 (1975); *Lloyd v. Wiest*, 2023-Ohio-869 (9th Dist.).

**{¶ 5}** Accordingly, we grant Judge Moore's motion for summary judgment. Costs to Goodykoontz. The court directs the clerk of courts to serve all parties with

notice of this judgment, and the date of entry upon the journal as required by Civ.R. 58(B).

{¶ 6} Writ denied.

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MICHELLE J. SHEEHAN, PRESIDING JUDGE

LISA B. FORBES, J., and  
MARY J. BOYLE, J., CONCUR