

[Cite as *State v. Brooks*, 2010-Ohio-2233.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 94578

STATE OF OHIO, EX REL.

RESPONDENT

vs.

RAY BROOKS

RELATOR

**JUDGMENT:
WRIT DENIED**

Writ of Procedendo
Motion No. 432427
Order No. 433670

RELEASE DATE: May 17, 2010

FOR RELATOR

Ray Brooks, pro se
Inmate No. 462-581
Toledo Correctional Institution
2001 East Central Avenue
Toledo, Ohio 43608

ATTORNEYS FOR RESPONDENT

William D. Mason
Cuyahoga County Prosecutor

By: James E. Moss
Assistant County Prosecutor
8th Floor Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

ANN DYKE, J.:

{¶ 1} Relator, Ray Brooks, requests that this court compel respondent judge to issue a ruling on the motion for return of property filed by relator in *State v. Brooks*, Cuyahoga County Court of Common Pleas Case No. CR-410781 on March 28, 2006. Although the title on his original filing in this court is “motion for procedendo,” we will treat this filing as a complaint in procedendo. See *Brown v. Synenberg*, Cuyahoga App. No. 93757, 2009-Ohio-5499, at ¶1.

{¶ 2} Respondent has filed a motion for summary judgment attached to which is a copy of the journal entry denying the motion for return of property and received for filing by the clerk on March 26, 2010. Relator has not opposed the motion. Respondent argues that this action in procedendo is, therefore, moot. We agree.

{¶ 3} Additionally, the complaint has several defects. Brooks did not comply with the requirement of R.C. 2969.25 that he file an affidavit describing the actions he has filed in state and federal court during the last five years. He also failed to file an affidavit specifying the details of the claim as required by Loc.App.R. 45(B)(1)(a). Each of these defects requires dismissal of the complaint. *Morris v. Bur. of Sentence Computation*, Cuyahoga App. No. 89517, 2007-Ohio-1444.

{¶ 4} We also note that the caption of this case is “*State ex rel. v. Brooks.*” That is, Brooks has failed to identify the relator and the respondent. Compare *State v. Thomas*, Cuyahoga App. No. 89583, 2007-Ohio-1692, at ¶2; *State v. Soltau*, Cuyahoga App. No. 84671, 2004-Ohio-4232, at ¶4. Furthermore, Brooks has not included the addresses of the parties in the caption as required by Civ.R. 10(A), which may also be a ground for dismissal. *Clarke v. McFaul*, Cuyahoga App. No. 89447, 2007-Ohio-2520, at ¶5.

{¶ 5} Accordingly, respondent's motion for summary judgment is granted. Relator to pay costs. The clerk is directed to serve upon the parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

Writ denied.

ANN DYKE, JUDGE

PATRICIA A. BLACKMON, P.J., and
FRANK D. CELEBREZZE, JR., J., CONCUR