

[Cite as *State ex rel. Hernandez v. Sutula*, 2010-Ohio-2901.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
**No. 94983**

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**STATE OF OHIO, EX REL.  
JAIME HERNANDEZ**

RELATOR

vs.

**JOHN D. SUTULA, JUDGE**

RESPONDENT

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**JUDGMENT:  
WRIT DENIED**

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Writ of Mandamus  
Motion No. 433551  
Order No. 434824

**RELEASE DATE:** June 21, 2010

**FOR RELATOR**

Jaime Hernandez, pro se  
Inmate No. 514-875  
Allen Correctional Institution  
P. O. Box 4501  
Lima, Ohio 45802

**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

KENNETH A. ROCCO, P.J.:

{¶ 1} Relator, Jaime Hernandez, requests that this court compel respondent judge to dispose of relator's supplemental evidentiary submission filed in *State v. Hernandez*, Cuyahoga County Court of Common Pleas Case No. CR-484277 on September 5, 2008.

{¶ 2} Respondent has filed a motion for summary judgment attached to which is a copy of a journal entry issued by respondent and received for filing by the clerk on April 28, 2010 in which respondent denied the filing because "it is not a proper motion under the Ohio Rules of Court." Relator has not

opposed the motion. Respondent argues that this action in mandamus is, therefore, moot. We agree.

{¶ 3} Additionally, the relator avers in his “Affidavit of Verity” “that each of the foregoing statements and factual allegations are true and correct to the best of my knowledge and belief \* \* \*.” It is well-established that a conclusory statement in an affidavit does not satisfy the requirement in Loc.App.R. 45(B)(1)(a) that the complaint in an original action must be supported by an affidavit specifying the details of the claim. As a consequence, relator’s failure to comply with Loc.App.R. 45(B)(1)(a) provides an additional basis for denying relief. See, e.g., *State ex rel. Stockwell v. Saffold*, Cuyahoga App. No. 93680, 2009-Ohio-4884.

{¶ 4} 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.

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KENNETH A. ROCCO, PRESIDING JUDGE

FRANK D. CELEBREZZE, JR., J., and  
LARRY A. JONES, J., CONCUR

