

[Cite as *State ex rel. Smith v. Norton*, 2010-Ohio-4141.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 95035

**STATE OF OHIO, EX REL.
RASHAUD SMITH**

RELATOR

vs.

GARY NORTON, JR., MAYOR, ET AL.

RESPONDENTS

**JUDGMENT:
WRIT DENIED**

Writ of Mandamus

Sua Sponte Order No. 436860

RELEASE DATE: August 31, 2010

FOR RELATOR

Rashaud Smith, pro se
Inmate #A580754
Richland Correctional Institution
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ATTORNEY FOR RESPONDENT

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City of East Cleveland
14340 Euclid Avenue
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COLLEEN CONWAY COONEY, J.:

{¶ 1} Rashaud Smith has filed a complaint for a writ of mandamus. Smith seeks an order from this court to require the city of East Cleveland, the East Cleveland Police Department, and Gary Norton, the Mayor of the city of East Cleveland, (collectively the “City”), to obey the order issued by the Cuyahoga County Court of Common Pleas in *State v. Smith*, Case No. CR-526784. Specifically, Smith seeks the release and return of two motor vehicles, a 2006 Dodge Magnum (Vehicle Identification No. 2D8FV47T76H286941) and a 2004 Cadillac SRX (Vehicle Identification No. 1GYEE63A240163585) as commanded within a journal entry issued by Judge

Brendan J. Sheehan in *State v. Smith*, journalized on January 11, 2010. The City has filed an unopposed “answer and memorandum in opposition to [the] complaint for a writ of mandamus.” For the following reasons, we decline to issue a writ of mandamus.

{¶ 2} Smith seeks a writ of mandamus in an effort to enforce the order for the return of two motor vehicles. The employment of mandamus to enforce a judgment, however, “is not popular and widespread because other avenues of enforcement are readily available.” *Hunt v. Westlake City School Dist. Bd. of Edn.* (1996), 114 Ohio App.3d 563, 568, 683 N.E.2d 803. See, also, *State ex rel Nationwide Mut. Ins. Co. v. Henson*, 96 Ohio St.3d 33, 2002-Ohio-2851, 770 N.E.2d 580; *State ex rel. Shemo v. Mayfield Hts.*, 93 Ohio St.3d 1, 2001-Ohio-1294, 752 N.E.2d 854. The Supreme Court of Ohio has also established that a writ of mandamus will issue only when there exists no alternative remedy in the ordinary course of the law or the alternative remedy is not adequate. See, e.g., *Shemo*. See, also, *State ex rel. DiVincenzo v. Griffing*, Trumbull Cty. App. No. 2003-T-0050, 2004-Ohio-1961.

{¶ 3} In the instant case, numerous other adequate remedies in the ordinary course of law exist to enforce Judge Sheehan’s order. Such adequate remedies include, inter alia, contempt proceedings before Judge Sheehan, the filing of a motion to show cause, or the filing of a motion to enforce judgment.

In fact, “[t]he court that issued the order sought to be enforced is in the best position to determine if that order has been disobeyed.” *State ex rel. Bitter v. Missig*, 72 Ohio St.3d 249, 252, 1995-Ohio-147, 648 N.E.2d 1355.

{¶ 4} Accordingly, we decline to issue a writ of mandamus on behalf of Smith. Costs to Smith. It is further ordered that the Clerk of the Eighth District Court of Appeals serve notice of this judgment upon all parties as required by Civ.R. 58(B).

Writ denied.

COLLEEN CONWAY COONEY, JUDGE

FRANK D. CELEBREZZE, JR., P.J., and
JAMES J. SWEENEY, J., CONCUR