

[Cite as *Thompson v. Donnelly*, 2017-Ohio-8892.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 106100

LAMAR THOMPSON

RELATOR

vs.

JUDGE MICHAEL P. DONNELLY

RESPONDENT

**JUDGMENT:
WRIT DENIED**

Writ of Procedendo
Motion No. 510067
Order No. 511701

RELEASE DATE: December 4, 2017

FOR RELATOR

Lamar Thompson, pro se
Inmate No. A684171
Belmont Correctional Institution
68518 Bannock Road
Saint Clairsville, Ohio 43950

ATTORNEYS FOR RESPONDENT

Michael C. O'Malley
Cuyahoga County Prosecutor
By: James E. Moss
Assistant County Prosecutor
The Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

LARRY A. JONES, SR., J.:

{¶1} Lamar Thompson has filed a complaint for a writ of procedendo. Thompson seeks an order from this court that compels Judge Michael P. Donnelly to render a judgment with regard to a petition for postconviction relief filed in *State v. Thompson*, Cuyahoga C.P. No. CR-15-598685. Judge Donnelly has filed a motion for summary judgment, which we grant for the following reasons.

{¶2} Attached to the motion for summary judgment is a copy of a judgment with findings of fact and conclusions of law, journalized September 5, 2017, that denied Thompson's petition for postconviction relief. Procedendo is unwarranted because this court will not compel the performance of a duty that has already been performed. *State ex rel. Hopson v. Cuyahoga Cty. Court of Common Pleas*, 135 Ohio St.3d 456, 2013-Ohio-1911, 989 N.E.2d 49, ¶ 4. Herein, the request for relief is moot.

{¶3} Finally, Thompson's complaint for a writ of procedendo is procedurally defective because he has failed to comply with R.C. 2969.25(A) and 2969.25(C). Pursuant to R.C. 2969.25(A), an inmate that commences a civil action against a government entity or employee must file a sworn affidavit that contains a description of each civil action or appeal of a civil action filed in the previous five years in any state or federal court. *State ex rel. McGrath v. McDonnell*, 126 Ohio St.3d 511, 2010-Ohio-4726, 935 N.E.2d 830. R.C. 2969.25(C)(1) requires that Thompson file a

statement setting forth his inmate account balance “for each of the preceding six months as certified by the institutional cashier.”

{¶4} Thompson has failed to provide this court with a notarized affidavit that describes previously filed civil actions. Thompson has also failed to provide this court with a certified statement setting forth the balance in his inmate account. *Freed v. Bova*, 8th Dist. Cuyahoga No. 99908, 2013-Ohio-4378; *Turner v. Russo*, 8th Dist. Cuyahoga No. 87852, 2006-Ohio-4490.

{¶5} Accordingly, we grant Judge Donnelly’s motion for summary judgment. Costs waived. 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.

LARRY A. JONES, SR., JUDGE

MARY EILEEN KILBANE, P.J., and
TIM McCORMACK, J., CONCUR