



[Cite as *State ex rel. Buoscio v. Cronin* , 2006-Ohio-2190.]

PER CURIAM:

{¶1} On November 22, 2005 pro-se Relator filed a Petition for Writ of Mandamus seeking an order to compel Respondent to dismiss a certain judgment entry of August 24, 2005. The referenced entry of August 24, 2005 recognizes that Relator has been declared a vexatious litigator by a Franklin County Common Pleas Court and that:

"This Court Dismisses Plaintiff's Motion for Leave and his Civil claim because a decision has not been made by the Franklin County Court of Common Pleas regarding his Motion for Leave to Proceed in this Court."

{¶2} In the Memorandum supporting his Petition, Samuel L. Buoscio states that the required prior leave of the Franklin County Common Pleas Court was obtained on November 9, 2005 and a copy of such leave was attached. In fact, Petitioner has attached his signed request for leave of court which he filed on November 9, 2005 in the Franklin County Common Pleas Court.

{¶3} As noted in Respondent's Motion to Dismiss filed on December 19, 2005, fatally lacking from Petitioner's complaint is a court order from the Franklin County Common Pleas Court allowing him to file the civil action which he sought to file in Mahoning County Common Pleas Court. The complaint is unsupported by the alleged documentation which would demonstrate a colorable claim to relief. It is deficient on its face. A deficient complaint is subject to sua sponte dismissal. *Nash v. McGinty*, 8<sup>th</sup> Dist. No. 84348, 2004-Ohio-2542.

{¶4} Mandamus will be granted only upon a showing that the Relator is clearly entitled to relief, that the Respondent is not performing a duty imposed by law and that there is no other adequate remedy at law. *State ex rel. Hodges v. Taft* (1992), 64 Ohio

St.3d 1, 591 N.E. 2d 1186. Respondent's motion to dismiss is granted for the reasons stated therein.

{¶5} Petition for Writ of Mandamus dismissed for failing to state facts warranting relief. Costs of this action taxed against Relator.

{¶6} Final order. Clerk to serve notice as provided by the civil rules.

Vukovich, J., concurs

Waite, J., concurs

Reader, J., concurs