

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
FULTON COUNTY

State of Ohio

Court of Appeals No. F-09-004

Appellee

Trial Court No. 92CR000118

v.

Daniel Rittner, Sr.

DECISION AND JUDGMENT

Appellant

Decided: July 31, 2009

* * * * *

Scott A. Haselman, Fulton County Prosecuting Attorney, and
Jon H. Whitmore, Assistant Prosecuting Attorney, for appellee.

Daniel L. Rittner, Sr., pro se.

* * * * *

OSOWIK, J.

{¶ 1} This is an appeal from a judgment of the Fulton County Court of Common Pleas which denied appellant's motion to find justiciable claim pursuant to R.C. 149.43(B)(4). For the reasons set forth below, this court affirms the judgment of the trial court.

{¶ 2} Appellant, Daniel L. Rittner, Sr., sets forth the following sole assignment of error:

{¶ 3} "Assignment of Error I: The trial court erred in [sic] abuse of discretion in [sic] opinion that voter registration records are subject to and [sic] or concern a criminal investigation or prosecution under R.C. §149.43 subsection (B) (4)."

{¶ 4} The following undisputed facts are relevant to the issues raised on appeal. This case stems from a 1992 rape. On January 22, 1993, appellant was found guilty of two counts of rape, in violation of R.C. 2907.02(A)(1), felonies of the first degree. Appellant was sentenced to two concurrent terms of incarceration of six to 25 years.

{¶ 5} In the intervening 15 years, appellant's unsuccessful appeal has been followed by a steady succession of meritless motions. The instant appeal pertains to one of the more recent filings in this apparently interminable case.

{¶ 6} On October 10, 2008, appellant filed a motion to "find justiciable claim pursuant to §149.43(B)(4)." On December 30, 2008, the trial court determined that appellant, "has not been able to present to the Court any relevant or reasonable scenario that could be characterized as a justiciable claim." Timely notice of appeal was filed.

{¶ 7} In the sole assignment of error, appellant contends that the trial court abused its discretion in denying his motion to find justiciable claim. The abuse of discretion standard of review applicable to this case has been repeatedly reaffirmed, including one of appellant's prior filings. *State v. Rittner*, 6th Dist. No. F-05-003, 2005-Ohio-6526.

{¶ 8} R.C. 149.43(8) establishes, "a public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim."

{¶ 9} In appellant's latest R.C. 149.43 filing, appellant unilaterally and unpersuasively concludes that the trial court erred in denying his motion. The crux of the disjointed, circuitous argument is that appellant claims that some unknown, undefined records exist somewhere which appellant believes would show him to be innocent and/or insane.

{¶ 10} The fervent, yet self-serving and unsupported, belief of the appellant in his innocence and insanity does not constitute a justiciable claim. The trial court clearly based its denial upon appellant's failure to establish the justiciable claim threshold burden statutorily imposed upon any such movant. While appellant asserts, "Defendant's claim is a justiciable [sic] claim," there is no evidence establishing the propriety of appellant's contention.

{¶ 11} We have carefully reviewed appellant's filings in this matter. We find that they consist of unsupported innuendo and untenable conclusions. They have no basis in law or fact. They have no evidentiary support. The record is devoid of any evidence from which we could conceivably conclude that the trial court acted arbitrarily, unreasonably, or unconscionably in finding that appellant failed to show a justiciable claim and therefore denying appellant's motion. We find appellant's assignment of error not well-taken.

{¶ 12} On consideration whereof, the judgment of the Fulton County Court of Common Pleas is affirmed. Appellant is ordered to pay the costs of this appeal pursuant to App.R. 24.

JUDGMENT AFFIRMED.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4.

Peter M. Handwork, J.

JUDGE

Mark L. Pietrykowski, J.

JUDGE

Thomas J. Osowik, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
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