

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

State ex rel. Carlos Mayes, :
Relator, :
v. : No. 08AP-520
[Judge Sheeran, Franklin County Court : (REGULAR CALENDAR)
of Common Pleas], :
Respondent. :
:

D E C I S I O N

Rendered on December 9, 2008

Carlos Mayes, pro se.

Ron O'Brien, Prosecuting Attorney, and *R. Matthew Colon*,
for respondent.

IN MANDAMUS
ON MOTION TO DISMISS

TYACK, J.

{¶1} Carlos Mayes filed this action in mandamus, seeking to compel Franklin County Common Pleas Court Judge Patrick Sheeran to rule on a petition Mayes had filed previously.

{¶2} In accord with Loc.R. 12, the case was referred to a magistrate of this court to conduct appropriate proceedings. Counsel for Judge Sheeran filed a motion to dismiss

this case. The magistrate issued a magistrate's decision which includes a recommendation that we sustain the motion to dismiss. (Attached as Appendix A.)

{¶3} No party has filed objections to the magistrate's decision. The case is now before the court for review.

{¶4} Carlos Mayes has failed to comply with R.C. 2969.25 which requires that an inmate provide proof of his inability to pay filing fees if he seeks to file a court action without paying the fees. Mayes has failed to pay filing fees and has failed to provide proof of his inability to pay required by R.C. 2969.25.

{¶5} We adopt the findings of fact and conclusions of law contained in the magistrate's decision. We, therefore, dismiss this case.

Case dismissed.

McGRATH, P.J., and SADLER, J., concur.

APPENDIX A

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State ex rel. Carlos Mayes,	:	
	:	
Relator,	:	
	:	
v.	:	No. 08AP-520
	:	
[Judge Sheeran, Franklin County Court of Common Pleas],	:	(REGULAR CALENDAR)
	:	
Respondent.	:	
	:	

MAGISTRATE'S DECISION

Rendered September 8, 2008

Carlos Mayes, pro se.

*Ron O'Brien, Prosecuting Attorney, and R. Matthew Colon,
for respondent.*

IN MANDAMUS
ON RESPONDENT'S MOTION TO DISMISS

{¶6} In this original action, relator, Carols Mayes, an inmate of the Southern Ohio Correctional Facility ("SOCF") requests a writ of mandamus ordering respondent, the Honorable Patrick E. Sheeran ("Judge Sheeran"), to rule on a petition relator filed on February 20, 2008.

Findings of Fact:

{¶7} 1. On June 19, 2008, relator, an SOCF inmate, filed this original action against Judge Sheeran.

{¶8} 2. With the complaint, relator filed a document captioned "Affidavit of Indigency," which requests that this court waive the filing fee.

{¶9} 3. With the complaint, relator filed a document purporting to be an affidavit. The document states that relator has not filed "any type of civil action within the last five years."

{¶10} 4. On July 17, 2008, respondent filed a motion to dismiss. In support, respondent attached a certified copy of a decision and entry ruling on a petition filed by relator on February 20, 2008.

{¶11} 5. In his memorandum in support, respondent also asserts that relator has failed to comply with R.C. 2969.25(A) and (C).

{¶12} 6. Relator has not responded to the motion to dismiss.

Conclusions of Law:

{¶13} It is the magistrate's decision that this court grant respondent's motion to dismiss, as more fully explained below.

{¶14} Under R.C. 2969.25(C), an inmate who seeks waiver of prepayment of the filing fees in a civil action brought against a government entity or employee, must file an affidavit that includes: (1) a statement of the amount in his inmate account for the preceding six months, as certified by the institutional cashier; and (2) a statement of all other cash and things of value owned by the inmate.

{¶15} Relator has failed to submit the statement of the amount in his inmate account for the preceding six months, as certified by the institutional cashier.

{¶16} Compliance with the provisions of R.C. 2969.25 is mandatory and failure to satisfy the statutory requirements is grounds for dismissal of the action. *State ex rel. Washington v. Ohio Adult Parole Auth.* (1999), 87 Ohio St.3d 258; *State ex rel. Zanders v. Ohio Parole Bd.* (1998), 82 Ohio St.3d 421; *State ex rel. Alford v. Winters* (1997), 80 Ohio St.3d 285.

{¶17} Relator's failure to comply with the mandatory requirements of R.C. 2969.25 is grounds for dismissal of the instant mandamus action.

{¶18} Accordingly, it is the magistrate's decision that this court grant respondent's motion to dismiss.

/s/Kenneth W. Macke
KENNETH W. MACKE
MAGISTRATE

NOTICE TO THE PARTIES

Civ.R. 53(D)(3)(a)(iii) provides that a party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ.R. 53(D)(3)(b).