

[Cite as *Cobb v. Koch*, 2001-Ohio-4150.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

No. 80131

MICHAEL J. COBB	:	ORIGINAL ACTION
	:	
Realtor	:	JOURNAL ENTRY
	:	AND
vs.	:	OPINION
	:	
JUDGE JUDITH KILBANE KOCH	:	
	:	
Respondent	:	

DATE OF JOURNALIZATION: OCTOBER 4, 2001

CHARACTER OF PROCEEDINGS: WRIT OF MANDAMUS

JUDGMENT: Writ Denied.
Motion No. 31712.

APPEARANCES:

For Relator: Michael Cobb, *pro se*
Inmate No. 355-344
Lorain Correctional Institute
2075 South Avon Belden Road
Grafton, Ohio 44044

For Respondent: WILLIAM D. MASON, ESQ.
Cuyahoga County Prosecutor
BY: LISA REITZ WILLIAMSON, ESQ.
Assistant County Prosecutor
Justice Center - 9th Floor
1200 Ontario Street
Cleveland, Ohio 44113

[Cite as *Cobb v. Koch*, 2001-Ohio-4150.]

Judge Frank D. Celebrezze Jr.:

On August 22, 2001, the relator, Michael J. Cobb, commenced this mandamus action against the respondent, Judge Judith Kilbane Koch, to compel her to rule on his petition for post conviction relief in *State v. Cobb*, Cuyahoga County Court of Common Pleas Case No. CR-354043 which was filed on July 17, 2000. On September 12, 2001, the respondent, through the Cuyahoga County Prosecutor, filed an answer and a motion for summary judgment.

Attached to the respondent's motion for summary judgment is a copy of the court's ruling on the relator's petition as well as its findings of fact and conclusions of law. Thus, the relator's request for a writ of mandamus is moot. *State ex rel. Gantt v. Coleman* (1983), 6 Ohio St.3d 5, 450 N.E.2d 1163; *State ex rel. Jerningham v. Cuyahoga County Court of Common Pleas* (1996), 74 Ohio St.3d 278, 658 N.E.2d 723.

Furthermore, we find that relator has failed to comply with R.C. 2969.25 which mandates that he attach an affidavit to his complaint that describes each civil action or appeal of a civil action filed in the previous five years. The failure to provide such affidavit constitutes sufficient grounds for dismissal of the relator's complaint for a writ of mandamus. *State ex rel. Zanders v. Ohio Parole Board* (1998), 82 Ohio St.3d 421, 696 N.E.2d 594; *State ex rel. Alford v. Winters* (1997), 80 Ohio St.3d 285, 685 N.E.2d 1242.

Accordingly, we grant the respondent's motion for summary judgment. Respondent to bear costs. It is further ordered that the clerk shall serve upon all parties notice of this judgment and date of entry pursuant to Civ.R. 58(B).

Writ denied.

PATRICIA A. BLACKMON, P.J., AND
TIMOTHY E. McMONAGLE, J., CONCUR.

FRANK D. CELEBREZZE, JR.
JUDGE