[Cite as State ex rel. McGee v. Mahon, 2002-Ohio-6647.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

## COUNTY OF CUYAHOGA

No. 81753

STATE OF OHIO, EX REL. BELVIN McGEE	:	ORIGINAL ACTION
Relator	:	JOURNAL ENTRY
vs.	:	AND
JUDGE WILLIAM E. MAHON, ET AL	:	OPINION
Respondent	:	
	:	
DATE OF JOURNALIZATION	:	DECEMBER 5, 2002
CHARACTER OF PROCEEDING	:	WRIT OF MANDAMUS
JUDGMENT	:	WRIT DENIED
APPEARANCES :		
For Relator:		BELVIN McGEE Inmate No. 379-965 Lorain Correctional Institution 2075 South Avon Belden Road Grafton, Ohio 44044
For Respondent:		WILLIAM D. MASON Cuyahoga County Prosecutor L. CHRISTOPHER FREY Assistant County Prosecutor Justice Center - 8 <sup>th</sup> Floor 1200 Ontario Street

ANNE L. KILBANE, J.:

**{¶1}** On October 18, 2002, Belvin McGee, sought a mandamus action to compel either Judge William Mahon or Judge Daniel Corrigan to rule on his May 7, 2002, motion to withdraw his guilty plea in *State v. McGee*, Cuyahoga County Court of Common Pleas Case No. CR-3383003. On November 8, 2002, the Judges filed a motion for summary judgment and attached a copy of the court ' s docket which indicates that McGee ' s motion was denied on November 4, 2002. Therefore, the request for a writ of mandamus is moot.<sup>1</sup>

 $\{\P 2\}$  Furthermore, we find that McGee 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, and such failure constitutes sufficient grounds for dismissal of the relator's complaint for a writ of mandamus.<sup>2</sup>

**{¶3}** Accordingly, we grant the motion for summary judgment. McGee 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).

<sup>&</sup>lt;sup>1</sup> 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.

<sup>&</sup>lt;sup>2</sup> 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.

Writ denied.

JAMES D. SWEENEY, J. AND

KENNETH A. ROCCO, P.J., CONCUR

ANNE L. KILBANE JUDGE