

[Cite as *Anderson v. Cleveland Common Pleas Court*, 2003-Ohio-4352.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

No. 83003

BENNIE ANDERSON	:	ORIGINAL ACTION
	:	
Relator	:	JOURNAL ENTRY
	:	AND
vs.	:	OPINION
	:	
CLEVELAND COMMON PLEAS COURT	:	
	:	
Respondent	:	

DATE OF JOURNALIZATION: AUGUST 8, 2003

CHARACTER OF PROCEEDINGS: WRIT OF MANDAMUS

JUDGMENT: Writ Denied.
Motion No. 349975 Denied
Motion No. 350984 Granted

APPEARANCES:

For Relator: BENNIE ANDERSON, PRO SE
Inmate NO. 190-787
Lorain Correctional Inst.
2075 S. Avon-Belden Road
Grafton, Ohio 44044

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

KENNETH A. ROCCO, A.J.:

{¶1} Bennie Anderson, the relator, has filed a complaint for a writ of mandamus.

Anderson seeks an order from this court which requires the Cuyahoga County Court of

Common Pleas, the respondent, to render a ruling with regard to a motion for pre-conviction jail time credit as filed in the underlying action of *State v. Anderson*, Cuyahoga County Court of Common Pleas Case No. CR-399468. The Cuyahoga County Court of Common Pleas has filed a supplemental motion for summary judgment which we grant for the following reasons.

{¶2} Initially, we find that Anderson's complaint for a writ of mandamus is defective since it is improperly captioned. A complaint for a writ of mandamus must be brought in the name of the state, on relation of the person applying. The failure of Anderson to properly caption his complaint for a writ of mandamus warrants dismissal. *Allen v. Court of Common Pleas of Allen Cty.* (1962), 173 Ohio St.2d 226, 181 N.E.2d 270; *Dunning v. Judge Cleary* (Jan. 11. 2001), Cuyahoga App. No. 78763. In addition, Anderson has failed to comply with R.C. 2969.25 which requires the attachment of an affidavit to the complaint for a writ of mandamus that describes each civil action or appeal filed by Anderson within the previous five years in any state or federal court. Anderson's failure to comply with R.C. 2969.25 warrants the dismissal of the complaint for a writ of mandamus. *State ex rel. Zanders v. Ohio Parole Board*, 82 Ohio St.3d 421, 1998-Ohio-218, 696 N.E.2d 594; *Alford v. Winters*, 80 Ohio St.3d 285, 1997-Ohio-117, 685 N.E.2d 1242.

{¶3} Finally, Anderson's request for a writ of mandamus is moot. Attached to the supplemental motion for summary judgment is a copy of a judgment entry, as journalized on June 23, 2003, which demonstrates disposition of Anderson's motion for pre-conviction jail time credit. The Cuyahoga County Court of Common Pleas has discharged its duty to render a ruling with regard to Anderson's motion for pre-conviction jail time credit. *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.

See, also, *State ex rel. Britton v. Judge Foley-Jones* (March 5, 1998), Cuyahoga App. No. 73646 and *State ex rel. Spates v. Judge Sweeney* (April 17, 1997), Cuyahoga App. No. 71986 which provide that this court will not issue an extraordinary writ to correct any error associated with the calculation of pre-conviction jail time credit. Any error associated with the calculation of pre-conviction jail time credit must be addressed through a direct appeal.

Id.

{¶4} Accordingly we grant the supplemental motion for summary judgment. Costs to Anderson. It is further ordered that the Clerk of the Eighth District Court of Appeals serve upon all parties notice of this judgment as required by Civ.R. 58(B).

Writ denied as moot.

KENNETH A. ROCCO, A. J.,
PRESIDING JUDGE

MICHAEL J. CORRIGAN, J., CONCURS

FRANK D. CELEBREZZE, JR., J., CONCURS