

[Cite as *State ex rel Donald v. Russo*, 2003-Ohio-6648.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT
COUNTY OF CUYAHOGA

No. 83660

STATE OF OHIO, EX REL.,	:	ORIGINAL ACTION
GREGORY LEE DONALD	:	
	:	
Relator	:	JOURNAL ENTRY
	:	AND
vs.	:	OPINION
	:	
JUDGE NANCY M. RUSSO	:	
	:	
Respondent	:	

DATE OF JOURNALIZATION: DECEMBER 11, 2003

CHARACTER OF PROCEEDINGS: WRIT OF MANDAMUS

JUDGMENT: Writ Denied.
Motion No. 354514
Order No. 354717

APPEARANCES:

For Relator: GREGORY LEE DONALD, PRO SE
Inmate No. 432-822
2000 South Avon Belden Road
Grafton, Ohio 44044

For Respondent: WILLIAM D. MASON, ESQ.
Cuyahoga County Prosecutor
BY: DIANE SMILANICK, ESQ.
Assistant County Prosecutor
Justice Center - 9th Floor
1200 Ontario Street

ANNE L. KILBANE, J.

{¶1} Gregory Donald, through a complaint for a writ of mandamus, requests this court to order Judge Nancy M. Russo to grant his motion for pre-conviction jail time credit in *State v. Donald*, Cuyahoga County Court of Common Pleas Case No. CR-419217. The judge responded with a motion for summary judgment, which we grant for the following reasons.

{¶2} Attached to the motion for summary judgment is a copy of a judgment entry that grants Donald sixty-eight (68) days of pre-conviction jail time credit. It must also be noted that any error associated with the calculation of pre-conviction jail time credit must be addressed through an appeal.¹ The judge has discharged her duty and Donald's request for a writ of mandamus is moot.²

{¶3} We find, however, that Donald has failed to comply with Loc.App.R. 45(B)(1)(a), which requires that the complaint be supported by an affidavit that specifies the details of the claim. His failure to provide this court with a supporting affidavit requires dismissal of the complaint.³ In addition, he has failed to comply with R.C. 2969.25, which requires an affidavit that delineates with specificity each civil action or appeal filed by him within the prior five years in any state or federal court. This failure to comply with R.C.

¹*State ex rel. Britton v. Judge Foley-Jones* (March 5, 1998), Cuyahoga App. No. 73646; *State ex rel. Spates v. Judge Sweeney* (April 17, 1997), Cuyahoga App. No. 71986.

²*State ex rel. Gantt v. Coleman* (1983), 6 Ohio St.3d 5, 450 N.E.2d 1163; *State ex rel. Jerningham v. Cuyahoga Cty. Court of Common Pleas* (1996), 74 Ohio St.3d 278, 658 N.E.2d 723.

³*State ex rel. Smith v. McMonagle* (July 17, 1996), Cuyahoga App. No. 70899; *State ex rel. Wilson v. Calabrese* (Jan. 18, 1996), Cuyahoga App. No. 70077.

2969.25 warrants the dismissal of the complaint for a writ of mandamus.⁴

{¶4} Accordingly, we grant the motion for summary judgment. Costs to Donald. 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).

{¶5} Writ denied.

ANNE L. KILBANE, JUDGE

DIANE KARPINSKI, J., CONCURS

ANTHONY O. CALABRESE, JR., J., CONCURS

⁴*State ex rel. Zanders v. Ohio Parole Board*, 82 Ohio State 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.