

[Cite as *State v. Golden*, 2009-Ohio-1231.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 92889

STATE OF OHIO

RESPONDENT

vs.

JAMES GOLDEN

RELATOR

**JUDGMENT:
PETITION DISMISSED**

WRIT OF MANDAMUS
ORDER NO. 419585

RELEASE DATE: March 18, 2009

FOR RELATOR:

James Golden, pro se
Inmate No. 550-325
Lake Erie Correctional Inst.
P.O. Box 8000
Conneaut, Ohio 44030-8000

ATTORNEY FOR RESPONDENT:

William D. Mason
Cuyahoga County Prosecutor
Justice Center, 8th Floor
1200 Ontario Street
Cleveland, Ohio 44113

JUDGE MELODY J. STEWART:

{¶ 1} On February 27, 2009, relator, James Golden, commenced this mandamus action against respondent, Judge Peter Corrigan, to compel him to rule on his motion for jail time credit in *State v. Golden*, Cuyahoga County Court of Common Pleas, Case No. CR-502530, which was filed on July 17, 2008. For the following reasons, we sua sponte dismiss the petition.

{¶ 2} Initially we find that the petition for a writ of mandamus is fatally defective since it is improperly captioned. A petition for a writ of mandamus must be brought in the name of the state, on relation of the person applying. Golden's failure to properly caption his petition as to the writ of mandamus constitutes sufficient reason for dismissal. *Allen v. Court of Common Pleas of*

Allen Cty. (1962), 173 Ohio St. 226, 181 N.E.2d 270; *Dunning v. Cleary* (Jan. 11, 2001), Cuyahoga App. No. 78763.

{¶ 3} Golden also 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*, 82 Ohio St.3d 421, 2008-Ohio-218, 696 N.E.2d 594; *State ex rel. Alford v. Winters*, 80 Ohio St.3d 285, 1997-Ohio-117, 685 N.E.2d 1242.

{¶ 4} Nevertheless, a review of the lower court's docket indicates that Judge Corrigan denied Golden's motion for jail time credit on February 18, 2009. Thus, Golden'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 Cty. Court of Common Pleas* (1996), 74 Ohio St.3d 278, 658 N.E.2d 723.

{¶ 5} Accordingly, we sua sponte dismiss Golden's petition for a writ of mandamus. Costs to respondent. 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).

{¶ 6} Petition dismissed.

MELODY J. STEWART, JUDGE

COLLEEN CONWAY COONEY, A.J., and
JAMES J. SWEENEY, J., CONCUR