

[Cite as *State v. Michailides*, 2009-Ohio-2733.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 93006

STATE OF OHIO

RESPONDENT

vs.

JOHN MICHAILIDES

RELATOR

**JUDGMENT:
WRIT DENIED**

WRIT OF MANDAMUS
ORDER NO. 421708

RELEASE DATE: June 8, 2009

FOR RELATOR:

John Michailides, pro se
Inmate No. 551-529
Lake Erie Correctional Inst.
P.O. Box 8000
Conneaut, Ohio 44030-8000

ATTORNEY FOR RESPONDENT:

Paul T. Murphy
Law Director
5843 Mayfield Road
Mayfield Heights, Ohio 44124

ANN DYKE, J.:

{¶ 1} John Michailides has filed a complaint for a writ of mandamus. Michailides seeks an order from this court, which requires the Lyndhurst Municipal Court to dismiss the underlying traffic case, captioned *Lyndhurst v. Michailides*, Lyndhurst Municipal Court Case No. 08TRC05083, on the basis of a lack of speedy trial. For the following reasons, we decline to issue a writ of mandamus.

{¶ 2} Initially, we find that Michailides's complaint for a writ of mandamus is defective, since it is improperly captioned. The complaint for a writ of mandamus must be brought in the name of the state on relation of the person applying. R.C. 2731.04; *Martin v. Woods*, Slip Opinion No. 2009-Ohio-1928; *Maloney v. Court of*

Common Pleas of Allen Cty. (1962), 173 Ohio St. 226, 181 N.E.2d 270; *Gannon v. Gallagher* (1945), 145 Ohio St. 170, 60 N.E.2d 666.

{¶ 3} Further review of the complaint for a writ of mandamus discloses that Michailides 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 within the previous five years in any state or federal court.

{¶ 4} Michailides'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 Bd.*, 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. It must also be noted that Michailides has failed to comply with Loc.App.R. 45(B)(1)(a), which mandates that his complaint for a writ of mandamus must be supported by an affidavit that specifies the details of the claim. *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.

{¶ 5} Finally, mandamus is not appropriate under the facts presented by Michailides. A complaint for a writ of mandamus may not be employed to address a claim of lack of speedy trial. *State ex rel. Hamilton v. Brunner*, 105 Ohio St.3d 304, 2005-Ohio-1735, 825 N.E.2d 607; *State ex rel. Dix v. Angelotta* (1985), 18 Ohio St.3d 115, 480 N.E.2d 407. A claim of lack of speedy trial can only be addressed

through a direct appeal. *Jackson v. Wilson*, 100 Ohio St.3d 315, 2003-Ohio-6112, 798 N.E.2d 1086.

{¶ 6} Accordingly, we are prevented from granting a writ of mandamus. Costs to Michailides. It is further ordered that the Clerk of the Eighth District Court of Appeals serve notice of this judgment upon all parties as required by Civ.R. 58(B).

Writ denied.

ANN DYKE, JUDGE

COLLEEN CONWAY COONEY, A.J., and
SEAN C. GALLAGHER, J., CONCUR