

[Cite as *State ex rel. Stockwell v. Strickland-Saffold*, 2009-Ohio-4884.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 93680

**STATE OF OHIO, EX REL.,
SCOTT STOCKWELL**

RELATOR

vs.

JUDGE SHIRLEY STRICKLAND-SAFFOLD

RESPONDENT

**JUDGMENT:
WRIT DENIED**

WRIT OF MANDAMUS
MOTION NO. 425134
ORDER NO. 425910

RELEASE DATE: September 14, 2009

FOR RELATOR

Scott Stockwell, pro se

#395-365
Trumbull Correctional Inst
P.O. Box 901
Leavittsburg, Ohio 44430

ATTORNEYS FOR RESPONDENT

William D. Mason
Cuyahoga County Prosecutor

BY: James E. Moss
Assistant County Prosecutor
8th Floor Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

JAMES J. SWEENEY, J.:

{¶ 1} Relator, Scott Stockwell, is the defendant in *State v. Stockwell*, Cuyahoga County Court of Common Pleas Case No. CR-388748. He requests that this court compel respondent judge to resentence him as required by this court's journal entry and opinion in *State v. Stockwell*, Cuyahoga App. No. 82345, 2003-Ohio-5495.

{¶ 2} Respondent has filed a motion for summary judgment attached to which is a copy of a journal entry issued by respondent and received for filing by the clerk on July 24, 2009, in which respondent scheduled a resentencing hearing for August 18, 2009. Relator has not opposed the motion. Respondent argues that this action in mandamus is moot. We agree.

{¶ 3} We also note that the docket in Case No. CR-388748 reflects that respondent held a resentencing hearing. In a journal entry received for filing on August 25, 2009, respondent resentenced Stockwell. In light of the August 25 entry, Stockwell has received the relief he requested and this action is moot.

{¶ 4} Additionally, we note that Stockwell's "Affidavit of Verity" in support of the complaint states "that the facts, legal issues, and arguments put forth in this Complaint and Petition for Writ of Mandamus are true to the best of his knowledge." Loc.App.R. 45(B)(1)(a) requires that complaints in original actions "must be supported by an affidavit from the plaintiff or relator specifying the details of the claim. Absent such detail and attachments, the complaint is subject to dismissal." It is well-established that a conclusory statement in an affidavit does not comply with Loc.App.R. 45(B)(1)(a) and provides a basis for entering judgment in favor of respondent. Compare *State ex rel. Leon v. Cuyahoga Cty. Court of Common Pleas*, Cuyahoga App. No. 92826, 2009-Ohio-1612, at ¶2 (relator averred in his affidavit that the complaint was "true and correct to the best of my knowledge, recollection, and belief").

{¶ 5} Accordingly, respondent's motion for summary judgment is granted. Relator to pay costs. The clerk is directed to serve upon the parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

Writ denied.

JAMES J. SWEENEY, JUDGE

ANN DYKE, P.J., and
LARRY A. JONES, J., CONCUR