

[Cite as *State ex rel. Peterson v. Gallagher*, 2010-Ohio-2490.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 94884

**STATE OF OHIO, EX REL.
DAMIEN PETERSON**

RELATOR

vs.

EILEEN A. GALLAGHER, JUDGE

RESPONDENT

**JUDGMENT:
WRIT DENIED**

Writ of Mandamus
Motion No. 433130
Order No. 434022

RELEASE DATE: June 2, 2010

FOR RELATOR

Damien Peterson, pro se
Inmate No. 503-884
Mansfield Correctional Institution
P.O. Box 788
1150 North Main St.
Mansfield, Ohio 44901-0788

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

LARRY A. JONES, J.:

{¶ 1} Relator, Damien Peterson, requests that this court issue a writ of mandamus compelling respondent judge to rule on his motion for sentencing filed in *State v. Peterson*, Cuyahoga County Court of Common Pleas Case No. CR-471307 on November 19, 2009. Peterson also requests that this court compel respondent to issue findings of fact and conclusions of law with respect to his motion for sentencing.

{¶ 2} Respondent has filed a motion for summary judgment attached to which is a copy of a journal entry issued by respondent judge and received for

filing by the clerk on April 5, 2010 in which respondent denied the motion for sentencing. Peterson has not opposed respondent's motion for summary judgment. Respondent argues that this action in mandamus is, therefore, moot. We agree.

{¶ 3} To the extent that Peterson is requesting that this court compel respondent to issue a journal entry disposing of his motion for sentencing, this action is moot. To the extent that Peterson is requesting that this court compel respondent to issue findings of fact and conclusions of law with respect to the denial of the motion for sentencing, the complaint fails to state a claim for relief upon which relief can be granted. That is, Peterson has not provided this court with any authority requiring respondent to issue findings of fact and conclusions of law with respect to a motion for sentencing.

{¶ 4} Additionally, the complaint is defective. Although Peterson attaches what purports to be a copy of his inmate account, the account is not certified by the prison cashier as required by R.C. 2969.25(C). Failure to comply with R.C. 2969.25 may result in dismissal and the denial of indigency status. See, e.g., *State ex rel. Santos v. McDonnell*, Cuyahoga App. No. 90659, 2008-Ohio-214.

{¶ 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.

LARRY A. JONES, JUDGE

SEAN C. GALLAGHER, A.J., and
ANN DYKE, J., CONCUR