

[Cite as *State ex rel. Moore v. Griffin*, 2010-Ohio-916.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 94515

**STATE OF OHIO, EX REL.
JAMES MOORE**

RELATOR

vs.

HONORABLE BURT GRIFFIN

RESPONDENT

**JUDGMENT:
WRIT DENIED**

Writ of Mandamus
Motion No. 430818
Order No. 431470

RELEASE DATE: March 10, 2010

FOR RELATOR

James Moore, pro se
Inmate No. 388-253
Marion Correctional Inst.
P.O. Box 57
Marion, Ohio 43302

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

COLLEEN CONWAY COONEY, J.:

{¶ 1} On January 14, 2010, relator James Moore commenced this mandamus action against Judge Burt Griffin to compel him to rule on his postconviction relief motion and issue findings of fact and conclusions of law in *State v. Moore*, Cuyahoga County Court of Common Pleas Case No. CR-378997. On February 3, 2010, Judge Michael P. Donnelly, through the Cuyahoga County Prosecutor's office, filed a motion for summary judgment.¹ For the following reason, we grant the motion for summary judgment.

¹ The above matter is currently assigned to Judge Michael P. Donnelly.

{¶ 2} Initially, we find that Moore’s request for a writ of mandamus is defective. Moore failed to support his complaint with an affidavit “specifying the details of the claim” as required by Local Rule 45(B)(1)(a). *State ex rel. Wilson v. Calabrese* (Jan. 18, 1996), Cuyahoga App. No. 70077; *State ex rel. Smith v. McMonagle* (July 17, 1996), Cuyahoga App. No. 70899. Moore’s failure to attach an affidavit that is sworn before a notary requires dismissal. *Morris v. Bur. of Sentence Computation*, Cuyahoga App. No. 89517, 2007-Ohio-1444; *State ex rel. McKay v. Corrigan*, Cuyahoga App. No. 88340, 2006-Ohio-4775.

{¶ 3} Nevertheless, attached to the motion for summary judgment is a copy of a journal entry which indicates that on January 22, 2010, Judge Donnelly denied Moore’s motion for judicial release.² Accordingly, we find that Moore’s petition for a writ of mandamus is moot. *State ex rel. Grant 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. Additionally, Judge Donnelly does not have a duty to issue findings of fact and conclusions of law upon the denial of a motion for judicial release. *State ex rel. Lynch v. Burnside* (July 9, 1999), Cuyahoga App. No. 76354.

² A review of the lower court docket reveals that Moore did not file a motion for postconviction relief but rather a motion for judicial release on July 25, 2007.

{¶ 4} Accordingly, we grant Judge Donnelly's motion for summary judgment and deny Moore's petition for a writ of mandamus. Respondent to bear costs. 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).

Writ denied.

COLLEEN CONWAY COONEY, JUDGE

CHRISTINE T. MCMONAGLE, P.J., and
MARY J. BOYLE, J., CONCUR