

[Cite as *State v. Copeland* , 2018-Ohio-2745.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 107051

STATE OF OHIO

RESPONDENT

vs.

ANTHONY COPELAND

RELATOR

JUDGMENT:
COMPLAINT DISMISSED

Writ of Mandamus
Motion No. 517373
Order No. 518254

RELEASE DATE: July 10, 2018

FOR RELATOR

Anthony Copeland, pro se
Inmate No. 0088677
Cuyahoga County Jail
P.O. Box 5600
Cleveland, Ohio 44101

ATTORNEYS FOR RESPONDENT

Michael C. O'Malley
Cuyahoga County Prosecutor
By: James E. Moss
Assistant County Prosecutor
The Justice Center, 9th Floor
1200 Ontario Street
Cleveland, Ohio 44113

TIM McCORMACK, P.J.:

{¶1} On April 11, 2018, the relator, Anthony Copeland, commenced this mandamus action to compel the production of a certified copy of his sentence computation and release date. On May 8, 2018, the Cuyahoga County Prosecutor filed a motion to dismiss. Copeland never filed a response. For the following reasons, this court grants the motion to dismiss.

{¶2} In the first underlying case, *State v. Copeland*, Cuyahoga C.P. No. CR-87-214421-B, a jury convicted him of aggravated robbery with a three-year firearm specification, carrying a concealed weapon, and having a weapon while under disability with a three-year firearm specification. The judge found that the firearm specifications were for separate acts and transactions. Thus, in an entry journalized October 29, 1987, the judge sentenced Copeland to three years for the firearm specification consecutive to ten to 25 years for aggravated robbery, four to ten years for carrying a concealed weapon, and three years for the second firearm specification consecutive to three to five years for having a weapon while under disability. The judge ordered that the firearm specifications were consecutive to each other for six years and that the base sentences were concurrent to each other.

{¶3} In the second underlying case, *State v. Copeland*, Cuyahoga C.P. No. CR-86-213510-ZA, in an entry journalized November 20, 1987, a jury found Copeland guilty on two counts of rape and one count of kidnapping. The trial judge sentenced him to ten to 25 years on each count to run concurrently to each other but consecutive to and prior to the sentence in the first underlying case. The Ohio Department of Rehabilitation and Correction's website states that June 1, 2043, is the expiration date of Copeland's maximum sentence.

{¶4} Copeland complains that although he has been in prison for 31 years and had five parole hearings, he has never been told his termination date. Thus, he seeks a writ of

mandamus requiring the Ohio Department of Rehabilitation and Correction, along with the Bureau of Sentence Computation, to provide him a certified copy of his expiration of sentence and discharge/release date.

{¶5} However, Copeland’s pleading is fatally deficient. He has failed to comply with R.C. 2969.25, which requires an affidavit that describes each civil action or appeal filed by the relator within the previous five years in any state or federal court. The court notes that he has filed a procedendo action in this court on March 28, 2018, which he captioned *State v. Copeland*, 8th Dist. Cuyahoga No. 106990. The relator’s failure to comply with R.C. 2969.25 warrants 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, and *State ex rel. Alford v. Winters*, 80 Ohio St.3d 285, 1997-Ohio-117, 685 N.E.2d 1242.

{¶6} He also did not comply with R.C. 2969.25(C), which requires that an inmate file a certified statement from his prison cashier setting forth the balance in his private account for each of the preceding six months. This also is sufficient reason to deny the mandamus, deny indigency status, and assess costs against the relator. *State ex rel. Pamer v. Collier*, 108 Ohio St.3d 492, 2006-Ohio-1507, 844 N.E.2d 842; *State ex rel. Hunter v. Cuyahoga Cty. Court of Common Pleas*, 88 Ohio St.3d 176, 2000-Ohio-285, 724 N.E.2d 420; and *Hazel v. Knab*, 130 Ohio St.3d 22, 2011-Ohio-4608, 955 N.E.2d 378 — the defect may not be cured by subsequent filings.

{¶7} The complaint is defective because it is improperly captioned. Copeland styled this action as “State of Ohio v. Anthony Copeland.” R.C. 2731.04 requires that an application for a writ of mandamus “must be by petition, in the name of the state on the relation of the person applying.” This failure to properly caption a mandamus action is sufficient grounds for denying

the writ and dismissing the petition. *Maloney v. Court of Common Pleas of Allen Cty.*, 173 Ohio St. 226, 181 N.E.2d 270 (1962). Civ.R. 10(A) further requires the names and addresses of all the parties in the title of the complaint. The failure to caption the case correctly creates uncertainty as to the identity of the respondent. This court has held that this deficiency alone warrants dismissal. *State ex rel. Calloway v. Court of Common Pleas of Cuyahoga Cty.*, 8th Dist. Cuyahoga No. 71699, 1997 Ohio App. LEXIS 79452 (Feb. 27, 1997); *Jordan v. Cuyahoga Cty. Court of Common Pleas*, 8th Dist. Cuyahoga No. 96013, 2011-Ohio-1813.

{¶8} Accordingly, because of the multiple, serious pleading deficiencies, this court grants the motion to dismiss and dismisses this application for a writ of mandamus. Relator to pay costs. This court directs the clerk of courts to serve all parties notice of this judgment and its date of entry upon the journal as required by Civ.R. 58(B).

{¶9} Complaint dismissed.

TIM McCORMACK, PRESIDING JUDGE

MELODY J. STEWART, J., and
KATHLEEN ANN KEOUGH, J., CONCUR