

[Cite as *State v. Anderson*, 2018-Ohio-3802.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 107473

STATE OF OHIO

RESPONDENT

vs.

SHYNE ANDERSON

RELATOR

**JUDGMENT:
WRIT DENIED**

Writ of Mandamus
Motion No. 520419
Order No. 520556

RELEASE DATE: September 17, 2018

[Cite as *State v. Anderson*, 2018-Ohio-3802.]

FOR RELATOR

Shyne Anderson
Inmate No. 682513
Richland Correctional Institution
P.O. Box 8107
Mansfield, Ohio 44904

ATTORNEYS FOR RESPONDENT

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

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TIM McCORMACK, P.J.:

{¶1} Shyne Anderson has filed a complaint for a writ of mandamus. Anderson seeks an order from this court that requires Judge Shirley Strickland Saffold to issue rulings with regard to motions for transcripts, motions for discovery, and motions for copies of documents that were filed in *State v. Anderson*, Cuyahoga C.P. Nos. CR-15-599104-A, CR-15-599105-A, CR-15-602138-A, and CR-15-602139-A. The Cuyahoga County prosecutor has filed a motion for summary judgment that is granted for the following reasons.

{¶2} Attached to the motion for summary judgment are copies of journal entries, journalized August 7, 2018, and August 15, 2018, that denied Anderson's motions for transcripts, motions for discovery, and motions for copies of documents. Relief is unwarranted because mandamus will not compel the performance of a duty that has already been performed. *State ex rel. Williams v. Croce*, Slip Opinion No. 2018-Ohio-2703; *State ex rel. Hopson v. Cuyahoga Cty. Court of Common Pleas*, 135 Ohio St.3d 456, 2013-Ohio-1911, 989 N.E.2d 49; *State ex rel. Fontanella v. Kontos*, 117 Ohio St.3d 514, 2008-Ohio-1431, 885 N.E.2d 220. Herein, the request for relief is moot.

{¶3} Anderson's complaint is also procedurally defective because he has failed to comply with R.C. 2969.25(A) and 2969.25(C). Pursuant to R.C. 2969.25(A), an inmate that commences a civil action against a government entity or employee must file a sworn affidavit that contains a description of each civil action or appeal of a civil action

filed in the previous five years in any state or federal court. *State ex rel. McGrath v. McDonnell*, 126 Ohio St.3d 511, 2010-Ohio-4726, 935 N.E.2d 830. R.C. 2969.25(C)(1) requires that Anderson file a statement setting forth his inmate account balance “for each of the preceding six months as certified by the institutional cashier.” Anderson has failed to provide this court with a notarized affidavit that describes previously filed civil actions and a certified statement setting forth the balance in his inmate account. *Freed v. Bova*, 8th Dist. Cuyahoga No. 99908, 2013-Ohio-4378; *Turner v. Russo*, 8th Dist. Cuyahoga No. 87852, 2006-Ohio-4490.

{¶4} In addition, we find that Anderson’s complaint is defective because it is improperly captioned. Anderson styled this action as “*State of Ohio v. Shyne Anderson*.”

Pursuant to R.C. 2731.04, a complaint for a writ of mandamus must be brought in the name of the state on relation of the person applying and cannot be captioned as a motion. *Rust v. Lucas Cty. Bd. of Elections*, 108 Ohio St.3d 139, 2005-Ohio-5795, 841 N.E.2d 766; *State ex rel. Simms v. Sutula*, 81 Ohio St.3d 110, 689 N.E.2d 564 (1998); *Maloney v. Court of Common Pleas of Allen Cty.*, 173 Ohio St. 226, 181 N.E.2d 270 (1962).

{¶5} Finally, Anderson has also failed to comply with Civ.R. 10(A), which requires that the complaint must include the names and addresses of all parties. *Bandy v. Villanueva*, 8th Dist. Cuyahoga No. 96866, 2011-Ohio-4831.

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{¶6} Accordingly, we grant the motion for summary judgment. Costs waived.

The court directs the clerk of courts to serve all parties with notice of this judgment and the date of entry upon the journal as required by Civ.R. 58(B).

{¶7} Writ denied.

TIM McCORMACK, PRESIDING JUDGE

EILEEN T. GALLAGHER, J., and
FRANK D. CELEBREZZE, JR., J., CONCUR