

[Cite as *Vaughn v. Calabrese*, 2018-Ohio-4902.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 107569

ANGELO D. VAUGHN

RELATOR

vs.

HONORABLE JUDGE DEENA R. CALABRESE

RESPONDENT

JUDGMENT:
WRITS DENIED

Writs of Mandamus and Procedendo
Motion No. 521147
Order No. 522967

RELEASE DATE: December 5, 2018

FOR RELATOR

Angelo D. Vaughn, pro se
Inmate No. 531521
Marion Correctional Institution
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Marion, Ohio 43301

ATTORNEYS FOR RESPONDENT

Michael C. O'Malley
Cuyahoga County Prosecutor
By: James E. Moss
Assistant County Prosecutor
The Justice Center, 8th Floor
1200 Ontario Street
Cleveland, Ohio 44113

MELODY J. STEWART, P.J.:

{¶1} On August 20, 2018, the relator, Angelo Vaughn, commenced this mandamus and procedendo action against the respondent, Judge Deena R. Calabrese, to compel the judge to rule on a motion for a final, appealable order, which Vaughn filed on July 14, 2017, in the underlying case, *State v. Vaughn*, Cuyahoga C.P. No. CR-07-492431-A. On September 14, 2018, the respondent judge, through the Cuyahoga County Prosecutor, moved for summary judgment on the grounds of mootness and procedural deficiency. Attached to the dispositive motion is a copy of a certified journal entry, filed stamped September 14, 2018, in which the judge denied the motion for a final, appealable order. Vaughn never filed a response.

{¶2} The September 14, 2018 journal entry establishes that the judge fulfilled her duty to rule on the subject motion and that Vaughn has received his requested relief, a ruling. This writ action is moot.

{¶3} The complaint is defective because it is improperly captioned. Vaughn styled this case as “Vaughn v. Calabrese.” 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), and *Rust v. Lucas Cty. Bd. of Elections*, 108 Ohio St.3d 139, 2005-Ohio-5795, 841 N.E.2d 766.

{¶4} Accordingly, this court grants the respondent’s motion for summary judgment and denies the application for writs of mandamus and procedendo. Relator to pay costs; costs waived. 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).

{¶5} Writs denied.

MELODY J. STEWART, PRESIDING JUDGE _____

ANITA LASTER MAYS, J., and
LARRY A. JONES, SR., J., CONCUR