

[Cite as *In re Williams v. Pianka*, 2012-Ohio-5518.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 98760

IN RE: LAWRENCE WILLIAMS

RELATOR

vs.

RAYMOND PIANKA, AS JUDGE, ETC.

RESPONDENT

**JUDGMENT:
WRIT DENIED**

Writ of Mandamus
Motion No. 458342
Order No. 460163

RELEASE DATE: November 28, 2012

FOR RELATOR

Lawrence Williams, pro se
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ATTORNEYS FOR RESPONDENT

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EILEEN A. GALLAGHER, J.:

{¶1} Lawrence Williams has filed a complaint for a writ of mandamus. Williams seeks an order from this court that requires Judge Raymond Pianka to issue a ruling with regard to an “emergency motion for temporary restraining order, injunction and stay of eviction” as filed in Cleveland M.C. No. 2012-CVG-010936. Judge Pianka has filed a motion for summary judgment, which is granted for the following reasons.

{¶2} Initially, we find that Williams’ complaint for a writ of mandamus is defective, because it is improperly captioned. The complaint for a writ of mandamus must be brought in the name of the state on relation of the person applying. R.C. 2731.04; *Maloney v. Court of Common Pleas of Allen Cty.*, 173 Ohio St. 226, 181 N.E.2d 270 (1962); *Gannon v. Gallagher*, 145 Ohio St. 170, 60 N.E.2d 666 (1945).

{¶3} Finally, Williams’ request for a writ of mandamus is moot. The underlying action, forcible entry and detainer, has concluded and Williams has been evicted from the residential property in question. See affidavit of Judge Pianka attached to the motion for summary judgment. *State ex rel. Jerningham v. Cuyahoga Cty. Court of Common Pleas*, 74 Ohio St.3d 278, 658 N.E.2d 723 (1996); *State ex rel. Snider v. Stapleton*, 65 Ohio St.3d 40, 600 N.E.2d 240 (1992); *State ex rel. Richard v. Wells*, 64 Ohio St.3d 76, 591 N.E.2d 1240 (1992); *State ex rel. Gantt v. Coleman*, 6 Ohio St.3d 5, 450 N.E.2d 1163 (1983).

{¶4} Accordingly, we grant Judge Pianka's motion for summary judgment. Williams to pay costs. The court directs the clerk of court to serve all parties with notice of this judgment and its date of entry upon the journal as required by Civ.R. 58(B).

{¶5} Writ denied.

EILEEN A. GALLAGHER, JUDGE

MELODY J. STEWART, P.J., and
MARY EILEEN KILBANE, J., CONCUR