

**IN THE COURT OF APPEALS  
ELEVENTH APPELLATE DISTRICT  
PORTAGE COUNTY, OHIO**

|   |                 |                             |
|---|-----------------|-----------------------------|
| IN RE EMELDA SNYPE,   | :               | <b>PER CURIAM OPINION</b>   |
| Relator,  | :               |                             |
| - vs -  | :               | <b>CASE NO. 2011-P-0096</b> |
| <br>JOHN ENLOW, IN HIS OFFICIAL<br>CAPACITY AS JUDGE OF THE<br>PORTAGE COUNTY COURT<br>OF COMMON PLEAS, | <br>:<br>:<br>: |                             |
| Respondent.   |                 |                             |

Original Action for Writ of Mandamus.

Judgment: Petition dismissed.

*Emelda Snype*, pro se, 14837 Detroit Avenue, Suite 208, Lakewood, OH 44107 (Relator).

*Victor V. Viglucci*, Portage County Prosecutor, and *Theresa M. Scahill*, Assistant Prosecutor, 241 South Chestnut Street, Ravenna, OH 44266 (For Respondent).

PER CURIAM.

{¶1} This matter is before the court pursuant to the petition for a writ of mandamus filed by relator, Emelda Snype, against respondent, Judge John Enlow of the Portage County Court of Common Pleas, and the motion to dismiss or, in the alternative, a motion for summary judgment filed by Judge Enlow. For the following reasons, this court dismisses relator's petition.

{¶2} In the petition for a writ of mandamus, relator states that Judge Enlow abused his discretion by not signing an order; has been biased toward her; has denied her due process of law; has racially discriminated against her; has committed multiple offenses against her; and has committed a multitude of “official corruption and rigo activity in Portage County.”

{¶3} Judge Enlow filed a motion to dismiss or, in the alternative, a motion for summary judgment. Judge Enlow argues that relator’s petition is procedurally defective. Further, Judge Enlow maintains, inter alia, that relator has not set forth the relief she seeks, for she has not attached any order or judgment she is seeking to enforce nor has she referenced any judgment or order in her petition.

{¶4} A court may sua sponte dismiss a petition for an extraordinary writ when it is improperly captioned. *Hill v. Kelly*, 11th Dist. No. 2011-T-0094, 2011-Ohio-6341, ¶4, citing *Maloney v. Court of Common Pleas of Allen Cty.*, 173 Ohio St. 226, 227 (1962). “The failure to caption an original action properly constitutes sufficient grounds for dismissing the petition.” *Barry v. Galvin*, 8th Dist. No. 85990, 2005-Ohio-2324, ¶2, citing *Allen v. Court of Common Pleas of Allen Cty.*, 173 Ohio St. 226 (1962).

{¶5} R.C. 2731.04 states, in part, that an “[a]pplication for the writ of mandamus must be by petition, in the name of the state on the relation of the person applying, and verified by affidavit.”

{¶6} The caption of relator’s petition does not indicate that the request is made in the name of the state on the relation of Snype. Instead, the petition was filed by Snype in her individual capacity. Further, we note that Judge Enlow alerted relator of her failure to properly caption the mandamus action by way of its motion filed December

29, 2011. Relator, however, did not seek leave to amend the complaint to comply with the requirements of R.C. 2731.04. See *Chine v. Mahoning Cty. Bd. of Elections*, 7th Dist. No. 11-MA-168, 2011-Ohio-5574, ¶4. For this reason alone, relator's petition must be dismissed.

{¶7} Additionally, pursuant to Civ.R. 10(A), the caption of a complaint must "include the names and addresses of all the parties." *Hill, supra*, at ¶8; *Turner, supra*, at ¶2. Here, relator has failed to include her address in the caption. For this additional reason, the petition must be dismissed.

{¶8} Further, relator's petition for a writ of mandamus is procedurally defective because she has failed to comply with the affidavit requirement of R.C. 2731.04. Although relator's failure to verify her mandamus petition by affidavit is "not a fatal defect by itself since the verification requirements contained in R.C. 2371.04 have been displaced by Civ.R. 11," the failure to properly caption the mandamus action is such a defect. *Chine, supra*, at ¶3. (Citations omitted.)

{¶9} Accordingly, we dismiss relator's petition for a writ of mandamus.

TIMOTHY P. CANNON, P.J., DIANE V. GRENDALL, J., CYNTHIA WESTCOTT RICE, J., concur.