

COURT OF APPEALS
COSHOCTON COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO, ex rel., STEPHEN H.
WHITT

Relator

-vs-

COSHOCTON COMMON PLEAS
COURT

Respondent

JUDGES:

Hon. W. Scott Gwin, P. J.
Hon. Sheila G. Farmer, J.
Hon. John W. Wise, J.

Case No. 2013CA0011

OPINION

CHARACTER OF PROCEEDING:

Petition for Writ of Mandamus

JUDGMENT:

Dismissed

DATE OF JUDGMENT ENTRY:

August 15, 2013

APPEARANCES:

For Relator

For Respondent

STEPHEN H. WHITT
L. E. C. I.
Post Office Box 56
Lebanon, Ohio 45036

JASON W. GIVEN
PROSECUTING ATTORNEY
318 Chestnut Street
Coshocton, Ohio 43812

Wise, J.

{¶1} Relator, Stephen H. Whitt, has filed a petition for writ of mandamus. Although it is not entirely clear what relief Relator seeks, the Court believes Relator is requesting the Respondent be ordered to cause certain people to be arrested on kidnapping charges.

{¶2} Respondent has filed a motion to dismiss essentially arguing Relator has no clear legal right to the relief requested.

{¶3} We find it unnecessary to address the claim raised in the Petition because we find Relator has failed to comply with the procedural requirements for a mandamus complaint.

{¶4} Relator has failed to comply with R.C. 2969.25 by failing to file an affidavit detailing his prior civil filings. The Supreme Court has held, “[t]he requirements of R.C. 2969.25 are mandatory, and failure to comply with them subjects an inmate's action to dismissal.” *State ex rel. White v. Bechtel*, 99 Ohio St.3d 11, 2003–Ohio–2262, 788 N.E.2d 634, ¶ 5. Noncompliance with R.C. 2969.25 warrants dismissal. *State ex rel. Graham v. Niemeyer* (2005), 106 Ohio St.3d 466, 106–467, 835 N.E.2d 1250, 1251.

{¶15} Relator's failure to include the affidavit requires dismissal of this case. For this reason, the Petition for Writ of Mandamus is dismissed.

By: Wise, J.

Gwin, P. J., and

Farmer, J., concur.

HON. JOHN W. WISE

HON. W. SCOTT GWIN

HON. SHEILA G. FARMER

JWW/d 0722

IN THE COURT OF APPEALS FOR COSHOCTON COUNTY, OHIO
FIFTH APPELLATE DISTRICT

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|--|---|---------------------|
| STATE OF OHIO, ex rel., STEPHEN H. WHITT | : | |
| | : | |
| Relator | : | |
| | : | |
| -vs- | : | JUDGMENT ENTRY |
| | : | |
| COSHOCTON COMMON PLEAS COURT | : | |
| | : | |
| Respondent | : | Case No. 2013CA0011 |

For the reasons stated in our accompanying Memorandum-Opinion, the Petition for Writ of Mandamus filed in the Court of Common Pleas of Coshocton County, Ohio, is dismissed.

Costs assessed to Relator.

HON. JOHN W. WISE

HON. W. SCOTT GWIN

HON. SHEILA G. FARMER