

IN THE COURT OF APPEALS OF OHIO  
SIXTH APPELLATE DISTRICT  
LUCAS COUNTY

Gregory Small

Court of Appeals No. L-20-1037

Relator

v.

Judge Myron C. Duhart

**DECISION AND JUDGMENT**

Respondent

Decided: March 19, 2020

\* \* \* \* \*

Gregory Small, pro se.

Julia R. Bates, Lucas County Prosecuting Attorney, and  
Evy M. Jarrett, Assistant Prosecuting Attorney, for respondent.

\* \* \* \* \*

**MAYLE, J.**

{¶ 1} In this original action, filed on February 10, 2020, relator Gregory Small petitions this court for a writ of mandamus ordering the respondent, Judge Myron C. Duhart of the Lucas County Court of Common Pleas, to provide him with a final

appealable order in his criminal case. (Lucas C.P. No. CR-89-7030). On February 12, 2020, Small filed a nearly-identical petition, seeking the same relief. (6th Dist. Lucas No. L-20-1039).

{¶ 2} In his petition, Small claims to have requested “on multiple occasions” that the trial court provide him with a “certified copy of the \* \* \* judgment of conviction and sentence” in his criminal case. In response, Small alleges that the court provided him with a “June 27, 1990 putative judgment entry” which he claims is not a final, appealable order. Without such an order, Small complains that he has been prevented from appealing his conviction and sentence. Small incorrectly asserts that the “putative judgment entry” is attached to his petition. Having reviewed the electronic copy of the petition that is posted on the clerk’s website, we find that the petition lacks any attachment(s). Therefore, this court is unable to address the substance of Small’s claim.

{¶ 3} Small also failed to file the petition “in the name of the state on the relation of the person applying,” as required by R.C. 2731.04. *See, e.g., Rust v. Lucas Cty. Bd. of Elections*, 108 Ohio St.3d 139, 2005-Ohio-5795, 841 N.E.2d 766. (“Rust did not bring this action in the name of the state. If \* \* \* a respondent in a mandamus action raises this R.C. 2731.04 defect and relators fail to seek leave to amend their complaint to comply with R.C. 2731.04, the mandamus action must be dismissed.”). Therefore, Small’s petition is improperly before this court and must be dismissed. *Accord State ex rel. Jones v. Cook*, 6th Dist. Lucas No. L-13-1011, 2013-Ohio-975.

{¶ 4} Accordingly, the petition is hereby ordered dismissed at relator's costs. It is so ordered.

**{¶ 5} To the Clerk: Manner of Service.**

{¶ 6} Serve upon all parties in a manner prescribed by Civ.R. 5(B) notice of the judgment and its date of entry upon the journal.

Writ denied.

Mark L. Pietrykowski, J.

\_\_\_\_\_  
JUDGE

Arlene Singer, J.

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JUDGE

Christine E. Mayle, J.  
CONCUR.

\_\_\_\_\_  
JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:  
<http://www.supremecourt.ohio.gov/ROD/docs/>.