SLIP OPINION NO. 2023-OHIO-2334

THE STATE EX REL. WOODS, APPELLANT, *v.* HEEKIN, JUDGE, APPELLEE.

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Woods v. Heekin*, Slip Opinion No. 2023-Ohio-2334.]

Mandamus—Court of appeals erred in dismissing petition for purported failure to file affidavit of prior civil actions as required by R.C. 2969.25(A)—Judgment reversed and cause remanded.

(No. 2022-1411—Submitted April 4, 2023—Decided July 11, 2023.)

APPEAL from the Court of Appeals for Hamilton County, No. C-220434.

Per Curiam.

{¶ 1} Appellant, Jeffery Woods, appeals the First District Court of Appeals' dismissal of his petition for a writ of mandamus against appellee, Hamilton County Common Pleas Court Judge Tom Heekin. The court of appeals dismissed Woods's petition, concluding that he had failed to file an affidavit of prior civil actions, as required by R.C. 2969.25(A). Because Woods did file the required affidavit, we

reverse the judgment dismissing Woods's petition and remand the case to the court of appeals.

BACKGROUND

{¶ 2} Woods is an inmate at the Marion Correctional Institution, where he is incarcerated for 1986 convictions for rape, attempted rape, aggravated robbery, and robbery.

{¶ 3} In September 2022, Woods filed a petition for a writ of mandamus in the First District against Judge Heekin, seeking an order compelling him to vacate an August 2019 judgment entry dismissing a malpractice case Woods filed against his criminal-defense attorney. Woods simultaneously filed an affidavit titled "motion/affidavit for the full waiver of prepayment of the filing fee" and citing R.C. 2969.21(A) and 2969.25(A) and (C), which indicated that he had filed one federal civil action in the previous five years. The court of appeals sua sponte dismissed Woods's petition based on his purported failure to file an affidavit of prior civil actions, as required by R.C. 2969.25(A).

ANALYSIS

{¶ 4} Under R.C. 2969.25(A), an inmate who commences a civil action in a court of appeals against a government entity or employee must file an affidavit describing "each civil action or appeal of a civil action that the inmate has filed in the previous five years in any state or federal court." The affidavit must include (1) a brief description of the nature of the civil action or appeal, (2) the case name, case number, and court in which the civil action or appeal was brought, (3) the name of each party, and (4) the outcome of each civil action or appeal. *Id.* Compliance with R.C. 2969.25(A) is mandatory, and a failure to comply warrants dismissal of the action. *State v. Henton*, 146 Ohio St.3d 9, 2016-Ohio-1518, 50 N.E.3d 553, ¶ 3.

{¶ 5} The court of appeals dismissed Woods's petition, concluding that Woods had failed to comply with R.C. 2969.25(A). The court erred because Woods filed with his mandamus petition a time-stamped affidavit stating that he had filed

in the United States District Court for the Southern District of Ohio a "civil right[s] complaint" under 42 U.S.C. 1983, 1985, and 1986 that was captioned *Woods v. Ney*, case No. 1:20-cv-693. Woods provided the names of the parties to the federal lawsuit and stated that the action was dismissed and that he did not appeal from the dismissal.

{¶ 6} Despite its misleading title, the affidavit Woods filed with his petition supports his claim that he, in fact, complied with R.C. 2969.25(A).

CONCLUSION

{¶ 7} The court of appeals erred when it dismissed Woods's petition for a writ of mandamus for noncompliance with R.C. 2969.25(A) because the record contains the required affidavit. We therefore reverse the court of appeals' judgment dismissing Woods's petition, and we remand the case to that court for consideration of the petition.

Judgment reversed
and cause remanded.

KENNEDY, C.J., and DEWINE, DONNELLY, STEWART, and BRUNNER, JJ., concur.

FISCHER and DETERS, JJ., not participating.

Jeffery Woods, pro se.

Melissa A. Powers, Hamilton County Prosecuting Attorney, and Sean M. Donovan, Assistant Prosecuting Attorney, for appellee.
