

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

State of Ohio ex rel. Dessalines Weaver, :
Relator, :
v. : No. 05AP-1210
Ohio Adult Parole Authority, : (REGULAR CALENDAR)
Respondent. :
:

D E C I S I O N

Rendered on September 26, 2006

Dessalines Weaver, pro se.

Jim Petro, Attorney General, and *Mark J. Zemba*, for respondent.

IN MANDAMUS
ON MOTION TO DISMISS

TRAVIS, J.

{¶1} In this original action, relator, Dessalines Weaver, an inmate of the Lebanon Correctional Institution, seeks a writ of mandamus against respondent, the Ohio Adult Parole Authority.

{¶2} The matter was referred to a magistrate of this court pursuant to Civ.R. 53(C) and Loc.R. 12(M) of the Tenth District Court of Appeals. The magistrate issued a decision that includes findings of fact and conclusions of law and recommended that this court grant respondent's motion to dismiss the complaint because relator failed to meet the mandatory filing requirements set forth in R.C. 2969.25(A) and (C). (Attached as Appendix A.) No objection has been filed to the magistrate's decision.

{¶3} Pursuant to Civ.R. 53(E)(4), the court conducted a full review of the magistrate's decision. The court finds that there is no error of law or other defect upon the face of the decision. Therefore, this court adopts the magistrate's decision. Respondent's motion to dismiss is granted.

Motion to dismiss granted.

KLATT, P.J., and SADLER, JJ, concur.

Findings of Fact:

{¶5} 1. On November 14, 2005, relator, an LCI inmate, filed this original action against a governmental entity.

{¶6} 2. Relator has not paid the filing fees for the filing of an original action in this court.

{¶7} 3. With his complaint, relator filed a document captioned affidavit of indigency which he executed September 9, 2005.

{¶8} 4. Relator has not filed a statement of the amount in his inmate account for the preceding six months as certified by the institutional cashier pursuant to R.C. 2969.25(C).

{¶9} 5. Relator has not filed the affidavit required by R.C. 2969.25(A) regarding any prior civil actions or appeals that he may have filed within the past five years.

{¶10} 6. On December 2, 2005, respondent filed a motion to dismiss.

{¶11} 7. On December 21, 2005, relator filed a written response to the motion to dismiss.

Conclusions of Law:

{¶12} It is the magistrate's decision that this court grant respondent's motion to dismiss.

{¶13} R.C. 2969.25(A) requires an inmate to file, at the time he commences a civil action against a government entity or employee, an affidavit listing each civil action or appeal that he has filed in the past five years, providing specific information regarding each action or appeal. R.C. 2969.25(A) states in part:

* * * The affidavit shall include all of the following for each of those civil actions or appeals:

- (1) A brief description of the nature of the civil action or appeal;
- (2) The case name, case number, and the court in which the civil action or appeal was brought;
- (3) The name of each party to the civil action or appeal;
- (4) The outcome of the civil action or appeal * * *.

{¶14} Under R.C. 2969.25(C), an inmate who seeks waiver of prepayment of the filing fees in a civil action brought against a government entity or employee, must file an affidavit that includes: (1) a statement of the amount in his inmate account for the preceding six months, as certified by the institutional cashier; and (2) a statement of all other cash and things of value owned by the inmate.

{¶15} Compliance with the provisions of R.C. 2969.25 is mandatory and failure to satisfy the statutory requirements is grounds for dismissal. *State ex rel. Washington v. Ohio Adult Parole Auth.* (1999), 87 Ohio St.3d 258; *State ex rel. Zanders v. Ohio Parole Bd.* (1998), 82 Ohio St.3d 421; *State ex rel. Alford v. Winters* (1997), 80 Ohio St.3d 285.

{¶16} Relator's failure to comply with the mandatory requirements of R.C. 2969.25(A) and (C) is grounds for dismissal of the instant action.

{¶17} Accordingly, because relator has failed to meet the mandatory filing requirements set forth at R.C. 2969.25(A) and (C), it is the magistrate's decision that this court grant respondent's motion to dismiss.

/s/Kenneth W. Macke
KENNETH W. MACKE
MAGISTRATE