

[Cite as *State ex rel. Fleming v. Ohio Adult Parole Auth.*, 2006-Ohio-941.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State of Ohio ex rel. Shawn F. Fleming,	:	
Relator,	:	
v.	:	No. 03AP-1279
Ohio Adult Parole Authority and	:	(REGULAR CALENDAR)
Ohio Adult Parole Board,	:	
Respondents.	:	

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D E C I S I O N

Rendered on March 2, 2006

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*Shawn F. Fleming*, pro se.

*Jim Petro*, Attorney General, and *Philip King*, for respondents.

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ON OBJECTIONS TO THE MAGISTRATE'S DECISION  
IN PROHIBITION

FRENCH, J.

{¶1} Relator, Shawn F. Fleming ("relator"), an inmate of the London Correctional Institution commenced this original action requesting this court to issue a writ of prohibition against respondents, the Ohio Adult Parole Authority and the Ohio

Adult Parole Board ("respondents"), enjoining respondents from placing relator on post-release control.

{¶2} Pursuant to Civ.R. 53(C) and Loc.R. 12(M) of the Tenth District Court of Appeals, this court referred this matter to a magistrate, who issued a decision including findings of fact and conclusions of law. (Attached as Appendix A.) The magistrate's decision recommends denial of relator's petition because he failed to comply with the mandatory filing requirements of R.C. 2969.25(A). Specifically, relator failed to file an affidavit listing each civil action or appeal he has filed in the past five years.

{¶3} Relator responded to the magistrate's decision by filing a motion for reconsideration to the magistrate's findings and response to respondents' motion to dismiss, which we interpret to be objections to the magistrate's decision. In his objections, relator urges the court to proceed to a judgment on the merits of his claim, rather than dismissing his petition on "mere technicalities." Relator also attached an affidavit stating that he has not commenced any civil action or appeals against government entities or state employees within the past five years or at any other time.

{¶4} First, we question the accuracy of relator's affidavit as relator commenced an action seeking the same relief against these same respondents on October 23, 2003. See *State of Ohio ex rel. Fleming v. Ohio Adult Parole Auth.* (Mar. 2, 2006), Franklin App. No. 03AP-1061. Second, R.C. 2969.25(A) requires an inmate to file the affidavit "[a]t the time that an inmate commences a civil action." The filing requirements of R.C. 2969.25 are mandatory, and failure to meet these 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; and *State ex rel. Alford v. Winters* (1997), 80 Ohio St.3d 285.

{¶5} Finding no error of law or other defect on the face of the magistrate's decision, we adopt the magistrate's decision as our own, including the findings of fact and conclusions of law therein. In accordance with the magistrate's decision, relator's requested writ of prohibition is sua sponte dismissed.

*Action dismissed.*

SADLER and TRAVIS, JJ., concur.

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**A P P E N D I X A**

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Respondents.	:	
	:	

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M A G I S T R A T E ' S   D E C I S I O N

Rendered on January 21, 2004

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*Shawn F. Fleming, pro se.*

*Jim Petro, Attorney General, for respondents.*

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IN PROHIBITION  
ON SUA SPONTE DISMISSAL

{¶6} In this original action, relator, Shawn F. Fleming, an inmate of the London Correctional Institution, requests that a writ of prohibition issue against respondent Ohio Adult Parole Authority.

Findings of Fact:

{¶7} 1. On December 26, 2003, relator, Shawn F. Fleming, an inmate of the London Correctional Institution, filed this original action against respondent Ohio Adult Parole Authority.

{¶8} 2. Relator has not filed an affidavit regarding prior actions as required by R.C. 2969.25(A).

Conclusions of Law:

{¶9} It is the magistrate's decision that this court sua sponte dismiss this action on grounds that relator has failed to comply with the mandatory requirements of R.C. 2969.25(A).

{¶10} 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. Relator has failed to file an affidavit listing the civil actions or appeals that he has filed within the past five years.

{¶11} Compliance with the provisions of R.C. 2969.25 is mandatory and failure to satisfy the statutory requirements is grounds for dismissal of the action. *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.

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

{¶13} Accordingly, it is the magistrate's decision that this court sua sponte dismiss this action.

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