

[Cite as *State ex rel. Gaines v. Boyle*, 2006-Ohio-1098.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

No. 87385

STATE OF OHIO, EX REL.,	:	ORIGINAL ACTION
ANTHONY GAINES	:	
	:	JOURNAL ENTRY
Relator	:	AND
	:	OPINION
vs.	:	
	:	
JUDGE MARY J. BOYLE	:	
	:	
Respondent	:	

DATE OF JOURNALIZATION: MARCH 6, 2006

CHARACTER OF PROCEEDINGS: WRIT OF MANDAMUS

JUDGMENT: Writ Denied.  
Motion No. 380126  
Order No. 381136

APPEARANCES:

For Relator: ANTHONY GAINES, pro se  
Inmate No. 441-417  
Trumbull Correctional Inst.  
P.O. Box 901  
Leavittsburg, Ohio 44430

For Respondent: WILLIAM D. MASON  
Cuyahoga County Prosecutor  
BY: T. ALLAN REGAS  
Assistant County Prosecutor  
Justice Center - 9<sup>th</sup> Floor  
1200 Ontario Street  
Cleveland, Ohio 44113

JUDGE COLLEEN CONWAY COONEY:

{¶ 1} On November 29, 2005, the relator, Anthony Gaines, commenced this mandamus action against the respondent, Judge Mary J. Boyle, to compel the respondent to issue findings of fact and conclusions of law for a postconviction relief petition, which Gaines filed on September 2, 2003, in the underlying case, *State v. Anthony Gaines*, Cuyahoga County Common Pleas Court Case No. CR-418255. On January 17, 2006, the respondent, through the Cuyahoga County Prosecutor, moved to dismiss. Gaines never filed a response. For the following reasons, this court grants the dispositive motion and denies the writ.

{¶ 2} Attached to the dispositive motion is a copy of the findings of fact and conclusions of law, sought by Gaines, which were file-stamped January 17, 2006, and signed by the respondent. Thus, the judge has fulfilled her duty to issue the findings of fact and conclusions of law, and Gaines has received his requested relief, a resolution of his postconviction petition. This matter is moot.

{¶ 3} Additionally, Gaines failed to comply with R.C. 2969.25(A), which requires an affidavit that describes each civil action or appeal filed by the relator within the previous five years in any state or federal court. His failure to comply with R.C. 2969.25(A) warrants dismissal of his complaint. *State ex rel. Zanders v. Ohio Parole Board* (1998), 82 Ohio St.3d 421, 696 N.E.2d

594 and *State ex rel. Alford v. Winters* (1997), 80 Ohio St.3d 285, 685 N.E.2d 1242. Relator also did not comply with R.C. 2969.25(C), which requires that an inmate file a certified statement from his prison cashier setting forth the balance in his private account for each of the preceding six months. This also is sufficient reason to deny mandamus, deny indigency status, and assess costs against the relator. *State ex rel. Hunter v. Cuyahoga County Court of Common Pleas*, 88 Ohio St.3d 176, 2000-Ohio-285, 724 N.E.2d 420.

{¶ 4} Accordingly, this writ is denied. Costs assessed against relator. The clerk is directed to serve upon the parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

COLLEEN CONWAY COONEY  
JUDGE

FRANK D. CELEBREZZE, JR., P.J., CONCURS

DIANE KARPINSKI, J., CONCURS