



State ex rel. Whitt v. Coshocton Common Pleas Court

2013 | Cited 0 times | Ohio Court of Appeals | August 15, 2013

[Cite as State ex rel. Whitt v. Coshocton Common Pleas Court, 2013-Ohio-3550 .]

COURT OF APPEALS COSHOCTON COUNTY, OHIO FIFTH APPELLATE DISTRICT

STATE OF OHIO, ex rel., STEPHEN H. JUDGES: WHITT Hon. W. Scott Gwin, P. J. Hon. Sheila G. Farmer, J. Relator Hon. John W. Wise, J.

-vs- Case No. 2013CA0011 COSHOCTON COMMON PLEAS COURT

Respondent OPINION

CHARACTER OF PROCEEDING: Petition for Writ of Mandamus

JUDGMENT: Dismissed

DATE OF JUDGMENT ENTRY: August 15, 2013

APPEARANCES:

For Relator For Respondent

STEPHEN H. WHITT JASON W. GIVEN L. E. C. I. PROSECUTING ATTORNEY Post Office Box 56 318 Chestnut Street Lebanon, Ohio 45036 Coshocton, Ohio 43812

Coshocton County, Case No. 2013CA0011 2

Wise, J.

{¶1} Relator, Stephen H. Whitt, has filed a petition for writ of mandamus.

Although it is not entirely clear what relief Relator seeks, the Court believes Relator is requesting the Respondent be ordered to cause certain people to be arrested on kidnapping charges.



State ex rel. Whitt v. Coshocton Common Pleas Court

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{¶2} Respondent has filed a motion to dismiss essentially arguing Relator has no clear legal right to the relief requested.

{¶3} We find it unnecessary to address the claim raised in the Petition because we find Relator has failed to comply with the procedural requirements for a mandamus complaint.

{¶4} Relator has failed to comply with R.C. 2969.25 by failing to file an affidavit detailing his prior civil filings. The Supreme Court has held, “[t]he requirements of R.C. 2969.25 are mandatory, and failure to comply with them subjects an inmate's action to dismissal.” State ex rel. White v. Bechtel, 99 Ohio St.3d 11 , 2003-Ohio-2262, 788 N.E.2d 634 , ¶ 5. Noncompliance with R.C. 2969.25 warrants dismissal. State ex rel. Graham v. Niemeyer (2005), 106 Ohio St.3d 466 , 106-467, 835 N.E.2d 1250 , 1251. Coshocton County, Case No. 2012CA0011 3

{¶5} Relator's failure to include the affidavit requires dismissal of this case. For this reason, the Petition for Writ of Mandamus is dismissed.

By: Wise, J.

Gwin, P. J., and

Farmer, J., concur.

_____ HON. JOHN W. WISE

_____ HON. W. SCOTT GWIN

_____ HON. SHEILA G. FARMER

JWW/d 0722



State ex rel. Whitt v. Coshocton Common Pleas Court

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Coshocton County, Case No. 2013CA0011 4

IN THE COURT OF APPEALS FOR COSHOCTON COUNTY, OHIO FIFTH APPELLATE DISTRICT

STATE OF OHIO, ex rel., STEPHEN H. : WHITT :: Relator :: -vs- : JUDGMENT ENTRY :
COSHOCTON COMMON PLEAS COURT :: Respondent : Case No. 2013CA0011

For the reasons stated in our accompanying Memorandum-Opinion, the Petition
for Writ of Mandamus filed in the Court of Common Pleas of Coshocton County, Ohio, is
dismissed.

Costs assessed to Relator.

_____ HON. JOHN W. WISE

_____ HON. W. SCOTT GWIN

_____ HON. SHEILA G. FARMER

