

[Cite as *State ex rel. Castro v. Corrigan*, 2011-Ohio-1701.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 96488

STATE OF OHIO, EX REL.
JOSE CASTRO

RELATOR

vs.

JUDGE DANIEL O. CORRIGAN

RESPONDENT

**JUDGMENT:
WRIT DENIED**

Writ of Mandamus
Motion No. 443231
Order No. 443437

RELEASE DATE: April 6, 2011

FOR RELATOR

Jose Castro, pro se
Inmate # A424171
Toledo Correctional Institution
2001 East Central Ave.
Toledo, Ohio 43608

ATTORNEYS FOR RESPONDENT

William D. Mason
Cuyahoga County Prosecutor

By: James E. Moss
Assistant County Prosecutor
8th Floor Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

COLLEEN CONWAY COONEY, J.:

{¶ 1} Jose Castro has filed a complaint for a writ of mandamus and/or procedendo. Castro seeks an order from this court, which requires Judge Michael J. Russo, in the underlying criminal action of *State v. Castro*, Cuyahoga County Court of Common Pleas Case No. CR-413227, to conduct a resentencing hearing and issue a final, appealable order that properly includes postrelease control.¹ Judge Russo has filed a motion for summary judgment, which we grant for the following reasons.

¹Pursuant to Civ.R. 25(D)(10), Judge Michael J. Russo is substituted for the

{¶ 2} Initially, we find that the affidavit attached to Castro’s complaint is defective. Loc.App.R. 45(B)(1) mandates that the complaint “must be supported by an affidavit from the plaintiff or relator specifying the details of the claim.” The affidavit attached to Castro’s complaint, however, is defective since it simply states that “[n]ow comes, the undersigned and does hereby state that the facts in the foregoing Petition for Writ of Mandamus and/or Procedendo, and the foregoing legal document attached hereto, are true and correct to the best of my knowledge.” Castro’s employment of this conclusory statement does not comply with the Loc.App.R. 45(B)(1) requirement that the affidavit must specify the details of the claim. *State ex rel. Santos v. McDonnell*, Cuyahoga App. No. 90659, 2008-Ohio-214; *Turner v. Russo*, Cuyahoga App. No. 87852, 2006-Ohio-4490; *Barry v. Galvin*, Cuyahoga App. No. 85990, 2005-Ohio-2324.

{¶ 3} It must also be noted that Castro has failed to comply with R.C. 2969.25(C), which requires that an inmate who files a complaint against a government entity or government employee must support the complaint with: (1) a statement that sets forth the balance in the inmate’s account for the preceding six months, as certified by the institutional cashier; and (2) a sworn statement that sets forth all other cash and items owned by the inmate. *Martin v. Woods*, 121 Ohio St.3d 609, 2009-Ohio-1928, 906 N.E.2d 1113.

judge that was originally assigned to the underlying criminal case.

{¶ 4} Finally, this court cannot issue a writ of mandamus and/or procedendo since Castro possesses or possessed an adequate remedy at law through a direct appeal of his sentence to raise the claim that he did not receive proper notification about postrelease control.

The Ohio Supreme Court has established that a sentencing entry, which includes language that postrelease control is part of the sentence, provides sufficient notice to raise any claimed errors on appeal rather than by extraordinary writ. *State ex rel. Tucker v. Forchione*, Slip Opinion No. 2010-Ohio-6291. See, also, *State ex rel. Pruitt v. Cuyahoga Cty. Court of Common Pleas*, 125 Ohio St.3d 402, 2010-Ohio-1808, 928 N.E.2d 722; *Patterson v. Ohio Adult Parole Auth.*, 120 Ohio St.3d 311, 2008-Ohio-6147, 898 N.E.2d 950; *Watkins v. Collins*, 111 Ohio St.3d 425, 2006-Ohio-5082, 857 N.E.2d 78.

{¶ 5} The sentencing journal entry of March 18, 2002 provided that “postrelease control is a part of this prison sentence for the maximum period allowed for the above felony(s) under R.C. 2967.28.” Castro received sufficient notice that postrelease control was a part of his sentence, and a direct appeal was the appropriate remedy, not a complaint for an extraordinary remedy.

{¶ 6} Accordingly, we grant Judge Russo’s motion for summary judgment. Costs to Castro. It is further ordered that the Clerk of the Eighth District Court of Appeals serve notice of this judgment upon all parties as required by Civ.R. 58(B).

Writ denied.

COLLEEN CONWAY COONEY, JUDGE

PATRICIA A. BLACKMON, P.J., and
EILEEN A. GALLAGHER, J., CONCUR