

OHIO COURT OF APPEALS, NINTH JUDICIAL DISTRICT

Robinson v. State

2021-Ohio-634 (Ohio Ct. App. 2021) · No. C.A. No. 20CA011709 · Decided March 8, 2021

SUMMARY

The Ninth District Court of Appeals of Ohio dismissed Martin Robinson’s petition for a writ of habeas corpus. The court held that Robinson, an incarcerated inmate seeking a filing-fee waiver, failed to satisfy the mandatory affidavit and account-balance requirements of Ohio Revised Code 2969.25(C) (1).

CASE DETAILS

COURT	Ohio Court of Appeals, Ninth Judicial District
WRITING FOR THE COURT	Per Curiam; Lynne S. Callahan; Hensal, J.; Teodosio, J.
JURISDICTION	Ohio
DECIDED	March 8, 2021
DOCKET	C.A. No. 20CA011709
DISPOSITION	dismissed
PROCEDURAL POSTURE	Original action for a writ of habeas corpus seeking release from prison; the court dismissed the petition for failure to comply with the mandatory filing requirements of R.C. 2969.25.
STANDARD OF REVIEW	The court applied the mandatory statutory filing requirements of R.C. 2969.25 and dismissed the action for noncompliance; no separate standard-of-review formulation was stated.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Martin Robinson v. State of Ohio, Dennis Will, Lorain County Prosecutor

TOPICS

- post-conviction relief
- appellate procedure
- civil procedure
- remedies

PRACTICE AREAS

- Habeas corpus
- Post-conviction relief
- Civil procedure

QUESTIONS PRESENTED

1. Whether Robinson's habeas corpus action had to be dismissed because his affidavit of indigency failed to comply with the mandatory requirements of R.C. 2969.25(C)(1).
2. Whether substantial compliance with R.C. 2969.25(C) was sufficient to avoid dismissal.

HOLDINGS

1. An inmate's civil action against a government entity or employee must be dismissed when the inmate fails to comply with the mandatory filing requirements of R.C. 2969.25.
2. Substantial compliance does not satisfy R.C. 2969.25(C); an inmate must strictly adhere to the statutory requirements.

KEY QUOTATIONS

“The requirements of R.C. 2969.25 are mandatory, and failure to comply with them subjects an inmate’s action to dismissal.” (¶ 2)

“R.C. 2969.25(C) does not permit substantial compliance;” (¶ 4)

FACTUAL BACKGROUND

Martin Robinson, an inmate at Madison Correctional Institution, filed a habeas corpus petition seeking release from prison and sought waiver of filing fees. His affidavit of indigency was not notarized, stated only that he was illegally incarcerated and earned no money, and did not provide the balance in his inmate account for any of the preceding six months. The court concluded that these omissions violated the mandatory requirements of R.C. 2969.25(C)(1).

PROCEDURAL HISTORY

Martin Robinson filed an original habeas corpus action in the Ninth District Court of Appeals against the State of Ohio and later added Lorain County Prosecutor Dennis Will as a respondent. Because Robinson sought waiver of filing fees, he was required to submit a compliant affidavit of indigency under R.C. 2969.25(C). The court found the affidavit incomplete and dismissed the action, taxing costs to Robinson.

DISPOSITION

dismissed

CASES CITED

- State ex rel. Graham v. Findlay Mun. Court, 106 Ohio St. 3d 63, 2005-Ohio-3671, ¶ 6
- State ex rel. Roden v. Ohio Dept. of Rehab. & Corr., 159 Ohio St. 3d 314, 2020-Ohio-408, ¶¶ 6, 8
- State ex rel. Neil v. French, 153 Ohio St. 3d 271, 2018-Ohio-2692, ¶ 7

OPINION

PER CURIAM.

[Cite as Robinson v. State, 2021-Ohio-634.] STATE OF OHIO) IN THE COURT OF APPEALS
)ss: NINTH JUDICIAL DISTRICT COUNTY OF LORAIN) MARTIN ROBINSON C.A. No.
20CA011709 Petitioner v. ORIGINAL ACTION IN STATE OF OHIO HABEAS CORPUS
Respondent Dated: March 8, 2021 PER CURIAM. {¶1} Petitioner Martin Robinson has filed a petition for writ of habeas corpus asking this Court to order the State of Ohio to release him from prison.

Mr. Robinson, in an addendum, also named Lorain County Prosecutor Dennis Will as a respondent in this matter. Because Mr. Robinson's petition does not comply with the mandatory requirements of R.C. 2969.25, this Court must dismiss this action. {¶2} R.C. 2969.25 sets forth specific filing requirements for inmates who file a civil action against a government employee or entity.

The respondents are a government entity and government employee and Mr. Robinson, incarcerated in the Madison Correctional Institution, is an inmate. R.C. 2969.21(C) and (D). A case must be dismissed if the inmate fails to comply with the mandatory requirements of R.C. 2969.25 in the commencement of the action. State ex rel. Graham v. Findlay Mun. Court, 106 Ohio St.3d 63, 2005-Ohio-3671, ¶ 6 ("The requirements C.A.

No. 20CA011709 Page 2 of 3 of R.C. 2969.25 are mandatory, and failure to comply with them subjects an inmate's action to dismissal."). Mr. Robinson failed to comply with several requirements. {¶3} An inmate seeking waiver of filing fees, as Mr. Robinson is here, must file an affidavit of indigency.

The affidavit must include, among other things, "[a] statement that sets forth the balance in the inmate account of the inmate for each of the preceding six months, as certified by the institutional cashier[.]" R.C. 2969.25(C)(1).

The Supreme Court construes these words strictly: an affidavit that "does not include a statement setting forth the balance in [an] inmate account for each of the preceding six months" fails to comply with R.C. 2969.25(C)(1). State ex rel. Roden v. Ohio Dept. of Rehab. & Corr., 159 Ohio St.3d 314, 2020-Ohio-408, ¶ 6. {¶4} Mr. Robinson's affidavit of indigency is incomplete for several reasons.

The affidavit is not notarized. It only states that he is illegally incarcerated and that he earns no money. It does not provide the balance in his inmate account for any period of time. "'R.C. 2969.25(C) does not permit substantial compliance[;]'" it requires strict adherence by the filing inmate. Id. at ¶ 8, citing State ex rel. Neil v. French, 153 Ohio St.3d 271, 2018-Ohio-2692, ¶ 7.

Therefore, Mr. Robinson's affidavit does not comply with the mandatory requirements of R.C. 2969.25(C)(1) and this case must be dismissed. {¶5} Because Mr. Robinson did not comply with

the mandatory requirements of R.C. 2969.25, this case is dismissed. Costs are taxed to Mr. Robinson.

The clerk of courts is hereby directed to serve upon all parties not in default notice of this judgment and its date of entry upon the journal. See Civ.R. 58. LYNNE S. CALLAHAN FOR THE COURT C.A. No. 20CA011709 Page 3 of 3 HENSAL, J. TEODOSIO, J. CONCUR. APPEARANCES: MARTIN ROBINSON, Pro se, Petitioner. J.D. TOMLINSON, Prosecuting Attorney, and KATHERINE L. KEEFER, Assistant Prosecuting Attorney, for Respondent.