

IN THE SUPREME COURT OF OHIO

STATE EX REL. ALRENZO BLANDIN : CASE NO. 07-330
Relator :
-vs- :
DANIEL W. BECK, :
ALLEN COUNTY SHERIFF : ORIGINAL ACTION
Respondent : IN MANDAMUS
:

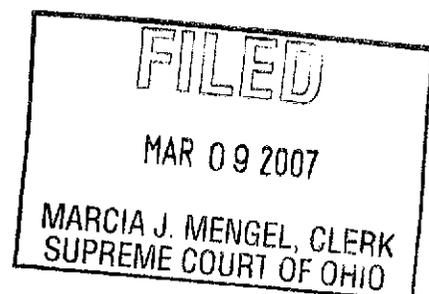
**RESPONDENT'S MOTION TO DISMISS RELATOR'S
COMPLAINT FOR A WRIT OF MANDAMUS**

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RELATOR PRO SE



IN THE SUPREME COURT OF OHIO

STATE EX REL. ALRENZO BLANDIN : CASE NO: 07-0330
Relator :
-vs- :
DANIEL W. BECK, ALLEN CO. SHERIFF : RESPONDENT'S MOTION TO
Respondent : DISMISS RELATOR'S
COMPLAINT FOR A WRIT
OF MANDAMUS
:

Now comes the Respondent, Daniel W. Beck, Sheriff of Allen County, Ohio, by and through the undersigned counsel, and moves this court for an order dismissing Relator's Complaint for a Writ of Mandamus, for the reasons set forth in the attached memorandum.

Respectfully submitted,


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MEMORANDUM

STATEMENT OF THE CASE:

The relator, Alrenzo Blandin, has filed a petition for a writ of mandamus through which he seeks an order from this court compelling the respondent, the sheriff of Allen County, Ohio, to release money that relator claims belongs to him and that relator claims is currently being held by the respondent in a commissary account at the Allen County Jail.

STATEMENT OF THE FACTS:

The relator is an inmate who is incarcerated with the Ohio Department of Rehabilitation and Correction. As set forth in his petition and the documents appended thereto, relator alleges he was arrested in Allen County on August 3, 2005 and booked into the Allen County Jail. Relator maintains that at the time of his arrest, \$1,058.00 in cash was taken from relator's person and, pursuant to jail policy, placed into a commissary account for relator at the Allen County Jail.

Relator's petition asserts that on December 22, 2006, he was transferred from the Allen County Jail to the Ohio Department of Rehabilitation and Correction, apparently to serve a prison term relating to a felony conviction. Relator maintains that at the time relator was transferred to prison, the funds credited to his commissary account at the Allen County Jail were not released to relator, or to his appointed representative, and relator claims that those funds are still being held by the Allen County Jail, which is under the supervision and control of the respondent. Finally, relator asserts that he has

made several requests that the funds be released to him, but that he has not received a response from the Allen County Sheriff's Office.

LEGAL ANALYSIS:

“In order to grant a writ of mandamus, a court must find that the relator has a clear legal right to the relief prayed for, that the respondent is under a clear legal duty to perform the requested act, and that relator has no plain and adequate remedy at law.” *State ex rel. Rogers v. Taft* (1992), 64 Ohio St.3d 193, 198. It is also provided in R.C. 2731.05 that “[t]he writ of mandamus must not be issued when there is a plain and adequate remedy in the ordinary course of law.”

In the instant case, assuming the truth of relator's allegations for purposes of this motion only, it is evident that relator has failed to pursue existing courses of legal action to recover the funds he claims are being wrongfully withheld. While relator's petition alleges that he has made several requests of respondent for the funds at issue, the relator has not alleged nor demonstrated that he has pursued any available legal course of action to attempt to recover those funds, such as an action in replevin, or a complaint for damages as a result of breach of contract or wrongful conversion, for instance. Thus, relator quite clearly has a plain and adequate remedy at law that precludes the granting of a writ of mandamus.

Accordingly, the relator has failed to state a claim upon which relief can be granted and a writ of mandamus is an inappropriate remedy in this case.

CONCLUSION:

In summary, the respondent requests that the relator's petition for a writ of mandamus be dismissed, for the reason that relator has a plain and adequate remedy in the ordinary course of law.

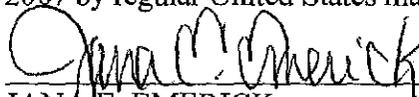
Respectfully submitted,



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PROOF OF SERVICE

I hereby certify that a copy of the foregoing was served upon Alrenzo Blandin, Relator Pro Se, Inmate # 538-507, 670 Marion-Williamsport Road East, P.O. Box 1812, Marion, Ohio 43301, this 8th day of March, 2007 by regular United States mail.



JANA E. EMERICK