

[Cite as *State ex rel. Witherspoon v. Donnelly*, 2010-Ohio-5021.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 95524

**STATE OF OHIO, EX REL.
RICHARD WITHERSPOON**

RELATOR

vs.

MICHAEL DONNELLY, JUDGE

RESPONDENT

**JUDGMENT:
WRIT DENIED**

Writ of Mandamus
Motion No. 437134
Order No. 437974

RELEASE DATE: October 12, 2010

FOR RELATOR

Richard Witherspoon, pro se
Inmate No. 534-607
P.O. Box 540
Belmont Correctional Institution
St. Clairsville, Ohio 43950

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

CHRISTINE T. MCMONAGLE, J.:

{¶ 1} Richard Witherspoon, the relator, has filed a complaint for a writ of mandamus. Witherspoon seeks an order from this court, which requires Judge Michael P. Donnelly to calculate and issue a judgment that specifies the total number of days of jail-time credit that he is to receive in *State v. Witherspoon*, Cuyahoga County Court of Common Pleas Case No. CR-493020. Judge Donnelly has filed a motion for summary judgment.

{¶ 2} Attached to the motion for summary judgment is a journal entry, which demonstrates that Judge Donnelly has granted Witherspoon jail-time credit in the amount of sixty-five (65) days. Witherspoon's request for a writ of mandamus is moot. *State ex rel. Jerningham v. Cuyahoga Cty. Court of Common Pleas*, 74 Ohio St.3d 278, 1996-Ohio-117, 658 N.E.2d 723; *State ex rel. Gantt v. Coleman* (1983), 6 Ohio St.3d 5, 450 N.E.2d 1163. It must also be noted that any error associated with the calculation of jail-time credit must be addressed through an appeal. *State ex rel Britton v. Foley-Jones* (Mar. 5, 1998), Cuyahoga App. No. 73646; *State ex rel. Spates v. Sweeney* (Apr. 17, 1997), Cuyahoga App. No. 71986.

{¶ 3} Accordingly, we grant Judge Donnelly's motion for summary judgment. Costs to Judge Donnelly. 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.

CHRISTINE T. MCMONAGLE, JUDGE

KENNETH A. ROCCO, P.J., and
MELODY J. STEWART, J., CONCUR