

[Cite as *State ex rel. Thompson v. Saffold*, 2017-Ohio-7250.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 105741

**STATE OF OHIO, EX REL.
LONNIE THOMPSON**

RELATOR

vs.

JUDGE SHIRLEY STRICKLAND SAFFOLD

RESPONDENT

**JUDGMENT:
WRIT DENIED**

Writ of Mandamus
Motion No. 507425
Order No. 508277

RELEASE DATE: August 14, 2017

FOR RELATOR

Lonnie Thompson, pro se
Inmate No. 640-614
Trumbull Correctional Institution
P.O. Box 901
Leavittsburg, Ohio 44430

ATTORNEYS FOR RESPONDENT

Michael C. O'Malley
Cuyahoga County Prosecutor
By: James E. Moss
Assistant County Prosecutor
The Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

FRANK D. CELEBREZZE, JR., J.:

{¶1} On May 3, 2017, the relator, Lonnie Thompson, commenced this mandamus and/or procedendo action against the respondent, Judge Shirley Strickland Saffold, to compel the judge to rule on the following motions that he filed in the underlying case, *State v. Thompson*, Cuyahoga C.P. No. CR-11-553640-A: (1) an August 20, 2014 motion for findings of fact and conclusions of law, (2) an October 29, 2015 request for findings of fact and conclusions of law, (3) an April 1, 2016 motion for reconsideration, (4) a May 12, 2016 motion to correct a void sentence, and (5) a November 23, 2016 motion for a final, appealable order. Additionally, Thompson seeks to compel the respondent to order him back to court for resentencing.

{¶2} On May 25, 2017, the respondent judge moved for summary judgment on the grounds of mootness. Attached to this dispositive motion were copies of certified journal entries, file-stamped May 25, 2017, which resolved the five subject motions. Specifically, one entry denied the motion and request for findings of fact and conclusions of law because those were issued on May 17, 2017. A review of the docket reveals that the judge issued nine pages of findings of fact and conclusions of law that day. Two other journal entries denied the motions for a final, appealable order and to correct a void sentence; the judge had issued a revised sentencing entry on May 17, 2017. Thompson did not file a response to the judge's dispositive motion.

{¶3} The requisites for mandamus are well established: (1) the relator must have a clear legal right to the requested relief, (2) the respondent must have a clear legal duty to perform the requested relief, and (3) there must be no adequate remedy at law. Additionally, although mandamus may be used to compel a court to exercise judgment or to discharge a function, it may not control judicial discretion, even if that discretion is grossly abused. *State ex rel. Ney v. Niehaus*, 33 Ohio St.3d 118, 515 N.E.2d 914 (1987). The attached journal entries establish that Thompson has received his requested relief and that the judge has fulfilled her duty to resolve the motions. Those claims are moot. Additionally, the May 17, 2017 revised sentencing entry precludes the need for returning Thompson to the trial court for resentencing, if it was ever necessary. Thompson's remedy now lies through appeal.

{¶4} Accordingly, this court grants the respondent's motion for summary judgment and denies the application for an extraordinary writ. Respondent to pay costs; costs waived. This court directs the clerk of courts to serve all parties notice of this judgment and its date of entry upon the journal as required by Civ.R. 58(B).

{¶5} Writ denied.

FRANK D. CELEBREZZE, JR., JUDGE

EILEEN T. GALLAGHER, P.J., and
MELODY J. STEWART, J., CONCUR