

IN THE COURT OF APPEALS OF OHIO  
SIXTH APPELLATE DISTRICT  
ERIE COUNTY

State of Ohio, ex rel. Gregory R. Haddox

Court of Appeals No. E-17-013

Relator

v.

Judge Tygh Tone, et al.

**DECISION AND JUDGMENT**

Respondent

Decided: March 31, 2017

\* \* \* \* \*

Gregory R. Haddox, pro se.

\* \* \* \* \*

**MAYLE, J.**

{¶ 1} This case is before the court upon a petition for writ of mandamus filed on March 21, 2017, by relator, Gregory R. Haddox, an inmate at the Lake Erie Correctional Institution. The respondent is Hon. Tygh Tone, the Erie County Court of Common Pleas judge who presided over Haddox’s criminal case, Erie County Case No. 2011CR309.

{¶ 2} Haddox alleges that Judge Tone failed to correctly apply pretrial confinement credit to all the terms of imprisonment to which he was sentenced. He maintains that if credit had been properly applied, he would now be serving time on an expired sentence. In his petition, Haddox asks that we compel Judge Tone to correct his judgment entry by ordering the Bureau of Sentence Computation to apply 315 days of jail-time credit to all stated prison terms. Haddox states in his petition that he has filed a number of motions in the trial court requesting this relief, but he does not disclose the outcome of those motions or attach the trial court's judgment entries.

{¶ 3} In order to be entitled to a writ of mandamus, Haddox must demonstrate (1) that he has a clear legal right to the relief requested, (2) that Judge Tone is under a clear legal duty to perform the requested act, and (3) that he has no plain and adequate remedy in the ordinary course of law. *State ex rel. Rankin v. Ohio Adult Parole Auth.*, 98 Ohio St.3d 476, 2003-Ohio-2061, 786 N.E.2d 1286, ¶ 6. Mandamus may not be used as a substitute for appeal. *State ex rel. Dunphy v. Graham*, 146 Ohio St. 547, 548-549, 67 N.E.2d 321 (1946).

{¶ 4} The Ohio Supreme Court has made clear that “[a]lleged errors regarding jail-time credit are not cognizable in mandamus but may be raised by way of the defendant's direct appeal of his criminal case.” *State ex rel. Rankin* at ¶ 10, citing *State ex rel. Jones v. O'Connor*, 84 Ohio St.3d 426, 704 N.E.2d 1223 (1999). This issue may also be raised by filing with the trial court a motion for proper application of jail-time credit. *State ex rel. Johnson v. Ohio Dep't of Rehab. & Corr.*, 10th Dist. Franklin No. 14AP-616,

2015-Ohio-2356, ¶ 10. Either way, a direct appeal from the trial court's judgment provides an adequate remedy in the ordinary course of the law, thereby precluding relief in mandamus.

{¶ 5} Because a direct appeal of the trial judge's calculation of jail-time credit was, or possibly still remains, available as an adequate remedy at law, Haddox cannot satisfy the required elements for relief in mandamus. *State ex rel. Becar v. Culotta*, 11th Dist. Lake No. 2010-L-106, 2010-Ohio-6575, ¶ 12. *See also Gregory v. Lucas Cty. Common Pleas Court*, 6th Dist. Lucas County No. L-98-1357, 1998 Ohio App. LEXIS 5896, 1-2 (Dec. 7, 1998) (finding that petitioner challenging calculation of credit failed to state a claim for relief in mandamus); *see also State ex rel. Flakes v. Russo*, 8th Dist. Cuyahoga No. 94044, 2009-Ohio-6474, ¶ 4 ("Once the trial court has specified the number of days of credit, appeal is the proper remedy to correct any error."). We, therefore, dismiss Haddox's petition sua sponte. He is ordered to pay the costs of this action.

{¶ 6} The clerk is directed to serve upon all parties, within three days, a copy of this decision in a manner prescribed by Civ.R. 5(B).

Writ denied.

Arlene Singer, J.

James D. Jensen, P.J.

Christine E. Mayle, J.  
CONCUR.

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JUDGE

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JUDGE

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