

**IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
TRUMBULL COUNTY, OHIO**

STATE OF OHIO,	:	PER CURIAM OPINION
Respondent,	:	CASE NO. 2010-T-0009
- vs -	:	
ARTHUR BELL,	:	
Relator.	:	

Original Action for Writ of Mandamus.

Judgment: Petition dismissed.

Dennis Watkins, Trumbull County Prosecutor, and *LuWayne Annos*, Assistant Prosecutor, Administration Building, Fourth Floor, 160 High Street, N.W., Warren, OH 44481-1092 (For Respondent).

Arthur Bell, pro se, PID: 561-428, Marion Correctional Institution, P.O. Box 57, Marion, OH 43301-0057 (Relator).

PER CURIAM.

{¶1} Relator, Arthur Bell, instituted the instant proceeding through the filing of a motion regarding the proper calculation of his jail-time credit. In his submission, relator alleged that, even though he had filed an appropriate motion in the underlying criminal action, the trial court refused to grant his request to reduce his present prison term by a total of five hundred seventy-eight days. In light of this refusal, he asked this court to take “subject matter jurisdiction” over the “credit” issue and immediately issue a ruling in

his favor on the matter. Relator argued that he was entitled to the additional credit because five hundred eighty-seven days had elapsed between his initial arrest on certain federal charges and his ensuing conviction on separate state charges.

{¶2} Relator did not have any other appeal or original action pending before this court at the time he filed his present motion. As a result, we construed his motion as a petition for a writ of mandamus. In now moving for the dismissal of the petition, respondent, the State of Ohio, asserts that this matter cannot proceed because relator has failed to state a viable claim for a writ. As the primary grounds for its motion, respondent maintains that it would be improper to review the merits of the “credit” issue in a mandamus action because relator will never be able to establish that there were no other legal remedies he could pursue to resolve the basic dispute.

{¶3} This court has recently had the opportunity to address the exact argument raised by respondent. In *Gunther v. Dept. of Corr. & Rehab.*, 11th Dist. No. 2010-T-0010, 2010-Ohio-2405, an inmate filed a motion to reduce the extent of his prison term for the reason that he was entitled to an additional jail-time credit. After concluding that the motion could only be construed as a mandamus petition, this court held that the “credit” issue could not be litigated in the context of a mandamus proceeding. In support of this holding, we emphasized that: (1) pursuant to the governing statutory law, the trial court is responsible for calculating the amount of a defendant’s credit; and (2) in attempting to contest that calculation in a mandamus action, the inmate will never be able to satisfy all elements for the writ because he will always have an adequate legal remedy through an appeal of the trial court’s determination. *Id.* at ¶3-5.

{¶4} In applying the foregoing two legal points to the facts of that specific case,

the *Gunther* court concluded its analysis in the following manner:

{¶5} “In the instant action, relator’s submission before us never indicated that he was seeking to bring an appeal from a final judgment of the sentencing court; thus, the sole proceeding relator could file to compel respondent to act would be a mandamus case. However, pursuant to the foregoing case law, a writ of mandamus can never lie in relation to this specific subject matter because a criminal defendant will always have an adequate legal remedy through the appropriate proceedings before the trial court and a direct appeal of the final calculation to this court. In other words, any question as to the calculation of relator’s credit cannot be addressed in a mandamus proceeding because: (1) this court does not have the authority to make the initial determination; and (2) we can only review the calculation in the context of a direct appeal.” *Id.* at ¶6.

{¶6} Given the nature of relator’s allegations, the holding in *Gunther* is controlling. Relator has essentially requested that we assume the role of the trial court and render a ruling on the merits of his “credit” argument. Under the foregoing precedent, though, an appellate court simply does not have the authority to make such a determination; instead, our role is limited to reviewing the ruling of the trial court. Moreover, because relator can always pursue a direct appeal of any “credit” decision of the trial court, he always will have an adequate legal remedy which will foreclose the issuance of a writ of mandamus.

{¶7} As an aside, this court would emphasize that relator never indicated in his initial submission that he had instituted this proceeding in order to compel the trial court to go forward. In addition, a review of the parties’ subsequent submissions shows that,

within ten days of the filing of the instant matter, the trial court issued a final decision on the merits of relator's "credit" argument.

{¶8} Even when the allegations in relator's "credit" motion before this court are construed in a manner most favorable to him, there is still no possible dispute that he will never be able to prove a set of facts under which he could satisfy all three elements for a writ of mandamus. That is, he will never be able to demonstrate a lack of an adequate remedy at law. Accordingly, the dismissal of this matter is warranted under Civ.R. 12(B)(6).

{¶9} Respondent's motion to dismiss is granted. It is the order of this court that relator's "credit" motion, construed as a petition in mandamus, is hereby dismissed in its entirety.

MARY JANE TRAPP, P.J., CYNTHIA WESTCOTT RICE, J., TIMOTHY P. CANNON, J.,
concur.