

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO, EX REL	:	JUDGES:
ANTHONY M. COOK	:	
	:	
Relator	:	Hon., Patricia A. Delaney , PJ.
	:	Hon., Sheila G. Farmer, J.
-vs-	:	Hon., John W. Wise, J.
	:	
JUDGE FRANK G. FORCHIONE	:	Case No. 2016CA00136
STARK COUNTY COMMOM PLEAS	:	
COURT	:	
	:	
Respondent	:	<u>OPINION</u>

CHARACTER OF PROCEEDING: Writ of Mandamus

JUDGMENT: Granted

DATE OF JUDGMENT: January 23, 2017

APPEARANCES:

For Relator: Pro Se

Anthony M. Cook
Lebanon Correctional Inst.
3791 State Route 63
Lebanon, Ohio 45036

For Respondent:

No Appearance

Delaney, P.J.

{¶1} Relator, Anthony Cook, has filed a complaint requesting this Court issue a writ of mandamus requiring the trial court to issue findings of fact and conclusions of law in support of Respondent's denial of Relator's motion for post conviction relief.

{¶2} To be entitled to extraordinary relief in mandamus, [a relator] must establish a clear legal right to the requested relief, a clear legal duty on the part of [respondent] to provide it, and the lack of an adequate remedy in the ordinary course of the law. *State ex rel. Waters v. Spaeth*, 131 Ohio St.3d 55, 2012–Ohio–69, 960 N.E.2d 452, ¶ 6.

{¶3} “Under R.C. 2953.21(C), findings of fact and conclusions of law are mandatory if the trial court dismisses a petition for post-conviction relief. *State ex rel. Konoff v. Moon*, 79 Ohio St.3d 211, 212, 1997–Ohio–398. Mandamus will lie to compel a trial court to issue findings of fact and conclusions of law when it dismisses a petition for post-conviction relief. *Id.*” *State ex rel. Banks v. Court of Common Pleas for Franklin Cty.*, 2011-Ohio-5055, ¶ 16 (10th Dist. Franklin).

{¶4} The transcript in Relator's appeal was filed on August 3, 2015. The motion for post conviction relief was filed on September 28, 2015, therefore, it appears to have been a timely motion for post conviction relief.

{¶5} “The rationale for requiring findings of fact and conclusions of law is to apprise the petitioner of the reasons for the trial court's judgment and to permit meaningful appellate review. *State v. Mapson* (1982), 1 Ohio St.3d 217, 219, 1 OBR 240, 242, 438 N.E.2d 910, 912. If the entry of the trial court sufficiently appraises the petitioner of the reasons for the judgment and permits meaningful appellate review, a writ of mandamus will not be issued to compel findings of fact and conclusions of law. *State ex rel. Carrion*

v. Harris (1988), 40 Ohio St.3d 19, 19–20, 530 N.E.2d 1330, 1330–1331.” *State ex rel. Konoff v. Moon*, 79 Ohio St.3d 211, 1997-Ohio-398, 680 N.E.2d 989 (1997).

{¶6} The entry denying the motion in this case does not contain any findings of fact or conclusions of law and does not apprise Relator of the reason for denying the motion.

{¶7} Relator has established his clear legal right to have the trial court issue findings of fact and conclusions of law as well as the trial court’s corresponding duty to supply them. We also find Relator has no adequate remedy at law to obtain the requested relief, therefore, the writ of mandamus will issue. Respondent shall issue an order containing findings of fact and conclusions of law as required by R.C. 2953.21.

By, Delaney, P.J.

Farmer, J. and

Wise, J. concur.

[Cite as *State ex rel. Cook v. Forchione*, 2017-Ohio-270.]