



{¶1} Relator Brandon R. Mace, a criminal defendant currently incarcerated in the Belmont Correctional Institution, has filed a complaint for writ of mandamus with this Court in order to compel Respondent Judge James R. Lanzo to rule on a motion to return personal property to him that was allegedly seized in Struthers Municipal Court Case No. CRA-07-668. The record indicates that the trial court has ruled on Relator's motion, and any further relief must be pursued through the process of direct appeal. The mandamus complaint is hereby dismissed.

{¶2} Relator alleges that he was the defendant in a criminal proceeding in Struthers Municipal Court and that a number of items, including two motor vehicles, were seized as evidence in the case. The Struthers Municipal Court's docket indicates that Relator pleaded no contest to a theft offense and was convicted and sentenced on June 3, 2009. On June 19, 2009, Relator filed a motion asking that his personal property be returned pursuant to R.C. 4510.41, which deals with the seizure, impoundment and disposition of motor vehicles as part of the prosecution of certain criminal charges that are specified in the statute. The trial court held a motion hearing on June 28, 2009, and the motion was denied. Relator then filed a complaint for writ of mandamus with this Court. Respondent has filed a motion to dismiss the mandamus complaint.

{¶3} A writ of mandamus is defined as "a writ, issued in the name of the state to an inferior tribunal, a corporation, board, or person, commanding the performance of an act which the law specially enjoins as a duty resulting from an office, trust, or station." R.C. 2731.01. "[M]andamus will lie when a trial court has

refused to render, or unduly delayed rendering, a judgment.” *State ex rel. Reynolds v. Basinger*, 99 Ohio St.3d 303, 2003-Ohio-3631, 791 N.E.2d 459, ¶5. To be entitled to a writ of mandamus, a relator must establish that he or she has a clear legal right to the relief sought, that the respondent has a clear legal duty to perform the requested act, and that the relator has no plain and adequate remedy in the ordinary course of law. *State ex rel. Luna v. Huffman* (1996), 74 Ohio St.3d 486, 487, 659 N.E.2d 1279. In order to constitute an adequate remedy at law, the alternative must be complete, beneficial, and speedy. *State ex rel. Smith v. Cuyahoga Cty. Court of Common Pleas*, 106 Ohio St.3d 151, 2005-Ohio-4103, 832 N.E.2d 1206, ¶19. The right to a direct appeal is an adequate remedy at law. *State ex rel. Dix v. McAllister* (1998), 81 Ohio St.3d 107, 108, 689 N.E.2d 561.

{¶4} A mandamus complaint may be dismissed where the complaint is frivolous or the claimant obviously cannot prevail on the facts alleged in the complaint. *State ex rel. Peebles v. Anderson* (1995), 73 Ohio St.3d 559, 560, 653 N.E.2d 371.

{¶5} Relator seeks two types of relief in his complaint. First, he requests us to order the trial court to rule on his motion to return seized property. The docket of the Struthers Municipal Court reflects that the motion was denied on September 28, 2009. Since the trial court has performed the first action prayed for in the mandamus complaint, this issue is now moot and cannot form a basis to grant the writ.

{¶6} Relator also asks that we issue an order compelling the trial judge to return forfeited property to him. Because the trial court has ruled against Relator’s

motion to return seized property, this Court has no legal authority to enter such an order in this proceeding. Relator's remedy, if he seeks to overturn a decision of the trial court, is solely pursued by way of a direct appeal and not through mandamus. Mandamus will not lie where there is an adequate remedy at law. A direct appeal forms an adequate remedy at law. *State ex rel. Dix*, supra, 81 Ohio St.3d at 108, 689 N.E.2d 561.

{¶7} Further, Relator has not raised any authority pursuant to R.C. 4510.41 giving him a clear legal right to any type of relief. Relator was convicted of theft in violation of R.C. 2913.02. This particular criminal charge is not listed as one of the criminal charges to which R.C. 4510.41 applies. By its own terms, R.C. 4510.41 applies only to charges brought under R.C. 4510.14, 4510.16, or 4511.203, or a municipal ordinance that is substantially equivalent to any of those sections. See R.C. 4510.41(A)(3). In addition, R.C. 4510.41(D)(1) and (2) state that, if the arrested person is convicted of the underlying criminal charge, the court must continue to impound the seized motor vehicles, or else initiate forfeiture proceedings. The statute does not allow the court to simply release the motor vehicle to the convicted defendant. There is no indication in Relator's complaint or attached documents that any part of R.C. 4510.41 authorizes us to grant him the relief he requests.

{¶8} It appears that Relator's mandamus complaint is frivolous. Therefore, we grant Respondent's motion to dismiss. The mandamus complaint is dismissed. Costs taxed against Relator. Final Order. Clerk to serve notice upon the parties as provided by the Civil Rules.

Waite, J., concurs.

Donofrio, J., concurs.

DeGenaro, J., concurs.