

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

State of Ohio ex. rel.,
Andre L. Vidales

Court of Appeals No. L-03-1094

Relator

v.

Robert G. Christiansen,
Judge, and Frederick H.
McDonald, Judge

DECISION AND JUDGMENT ENTRY

Decided: April 28, 2003

Respondents

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Andre L. Vidales, pro se.

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SINGER, J.

{¶1} This matter is before the court on the petition of relator, Andre L. Vidales, who requests that the court issue a writ of mandamus, pursuant to R.C. Chapter 2731, ordering

{¶2} respondents, Lucas County Common Pleas Judges Robert Christiansen and Frederick McDonald, to grant him credit for jail time served.

{¶3} In 2000, relator was convicted and sentenced for two separate offenses in respondents' courts. Relator insists that respondents denied relator 51 days of jail time credit he should have received at sentencing.

{¶4} A writ of mandamus is an extraordinary remedy which shall issue only on a relator's showing that the relator has no adequate remedy at law and that he or she has a clear legal right to the remedy sought. *State ex rel. Pressley v. Industrial Commission of Ohio* (1967), 11 Ohio St.2d 141, paragraphs 1 and 9 of the syllabus. Where it is clear that a petitioner cannot prevail on the facts alleged in the petition, the court may sua sponte dismiss the matter. *State ex rel. Cossett v. State Governors Federalism Summit* (1995), 74 Ohio St.3d 1416.

{¶5} An erroneous credit of jail time is appealable, either directly, see, *State v. Gregory* (1995), 108 Ohio App.3d 264, or after denial of a postconviction motion. *State v. Bradford*, 149 Ohio App.3d 586, 2002-Ohio-5508. Accordingly, appellant has an adequate remedy at law through appeal.

{¶6} Pursuant to *State ex rel. Cossett*, supra, we sua sponte dismiss petitioner's petition. Costs to petitioner.

PETITION DISMISSED.

Mark L. Pietrykowski, J.

JUDGE

Judith Ann Lanzinger, J.

JUDGE

Arlene Singer, J.
CONCUR.

JUDGE