

THE STATE EX REL. ADAMS, APPELLANT, v. KRICHBAUM, JUDGE, APPELLEE.

[Cite as *State ex rel. Adams v. Krichbaum*,
105 Ohio St.3d 225, 2005-Ohio-1203.]

Mandamus — Resentencing under State v. Comer not required when petitioner’s sentence became final before Comer was decided.

(No. 2004-1524 — Submitted March 9, 2005 — Decided April 6, 2005.)

APPEAL from the Court of Appeals for Mahoning County,

No. 04-MA-108, 2004-Ohio-4286.

Per Curiam.

{¶ 1} In August 2000, the Mahoning County Court of Common Pleas convicted appellant, Dajuan Adams, of two counts of attempted murder and accompanying firearm specifications and sentenced him to 26 years in prison. In March 2002, Adams’s appeal from his conviction and sentence was dismissed.

{¶ 2} In June 2004, Adams filed a petition in the Court of Appeals for Mahoning County for a writ of mandamus to compel the state of Ohio to vacate his sentence and resentence him in accordance with *State v. Comer*, 99 Ohio St.3d 463, 2003-Ohio-4165, 793 N.E.2d 473. Appellee, Judge R. Scott Krichbaum, of the common pleas court, moved to dismiss the petition. On July 30, 2004, the court of appeals granted Judge Krichbaum’s motion and dismissed the petition.

{¶ 3} The cause is now before this court upon Adams’s appeal as of right.

{¶ 4} We affirm the judgment of the court of appeals. Adams is not entitled to the retroactive application of *Comer* to his sentence because it had become final before we decided *Comer*. See *Ali v. State*, 104 Ohio St.3d 328,

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2004-Ohio-6592, 819 N.E.2d 687, ¶ 7, and cases cited therein, which include the court of appeals opinion in this case.

Judgment affirmed.

MOYER, C.J., RESNICK, PFEIFER, LUNDBERG STRATTON, O'CONNOR,
O'DONNELL and LANZINGER, JJ., concur.

Dujuan Adams, pro se.

Paul J. Gains, Mahoning County Prosecuting Attorney, and Greta L.
Johnson, Assistant Prosecuting Attorney, for appellee.
