

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Avery v. Union Cty. Court of Common Pleas*, Slip Opinion No. 2010-Ohio-1427.]

NOTICE

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SLIP OPINION NO. 2010-OHIO-1427

**THE STATE EX REL. AVERY, APPELLANT, v. UNION COUNTY
COURT OF COMMON PLEAS, APPELLEE.**

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Avery v. Union Cty. Court of Common Pleas*, Slip Opinion No. 2010-Ohio-1427.]

Appeal from dismissal of complaint for writ of mandamus — Mandamus not available to control judicial discretion — Judgment affirmed.

(No. 2009-2346 — Submitted March 31, 2010 — Decided April 7, 2010.)

APPEAL from the Court of Appeals for Union County, No. 14-09-35.

Per Curiam.

{¶ 1} We affirm the judgment of the court of appeals dismissing the petition of appellant, Edward B. Avery Sr., for a writ of mandamus to compel appellee, Union County Court of Common Pleas, to grant his pending motion by causing his sentencing entry to “speak the truth.” “[M]andamus will not lie to control judicial discretion, even if that discretion is abused.” *State ex rel. Dreamer v. Mason*, 115 Ohio St.3d 190, 2007-Ohio-4789, 874 N.E.2d 510, ¶ 12.

SUPREME COURT OF OHIO

Therefore, mandamus will not issue to compel the common pleas court to enter a specific judgment on Avery's pending motion. *State ex rel. Rashada v. Pianka*, 112 Ohio St.3d 44, 2006-Ohio-6366, 857 N.E.2d 1220, ¶ 3.

Judgment affirmed.

MOYER, C.J.,¹ and PFEIFER, LUNDBERG STRATTON, O'CONNOR, O'DONNELL, LANZINGER, and CUPP, JJ., concur.

Edward B. Avery Sr., pro se.

1. The late Chief Justice Thomas J. Moyer participated in the deliberations in, and the final resolution of, this case prior to his death.