

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Samples v. Heath*, Slip Opinion No. 2013-Ohio-66.]

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SLIP OPINION NO. 2013-OHIO-66

THE STATE EX REL. SAMPLES, APPELLANT, v. HEATH, JUDGE, APPELLEE.
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Slip Opinion No. 2013-Ohio-66.]

Mandamus and procedendo—Adequate remedy at law available—Court of appeals' judgment dismissing complaint affirmed.

(No. 2012-1306—Submitted January 9, 2013—Decided January 16, 2013.)

APPEAL from the Court of Appeals for Stark County,

No. 2012CA00035, 2012-Ohio-2880.

Per Curiam.

{¶ 1} We affirm the judgment of the court of appeals dismissing the complaint of appellant, Douglas Lee Samples, for writs of mandamus and procedendo. Samples is not entitled to the requested extraordinary relief in mandamus for his claims of sentencing error, because he had an adequate remedy by way of appeal to raise his claims. *See* R.C. 2731.05; *State ex rel. Barr v. Sutula*, 132 Ohio St.3d 297, 2012-Ohio-2790, 971 N.E.2d 928 (court affirmed

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judgment dismissing mandamus claim because appellant “had an adequate remedy by way of appeal from his sentencing entry to raise his claim of sentencing error”). Moreover, insofar as Samples sought writs of mandamus and procedendo to compel the issuance of a valid sentence and rulings on motions that were pending when he filed his complaint, the trial court has provided the requested relief. *See, e.g., State v. Samples*, 5th Dist. No. 2010-CA-00122, 2011-Ohio-179, affirming the trial court’s revised sentencing entry. “Neither mandamus nor procedendo will lie to compel an act that has already been performed.” *State ex rel. Lester v. Pepple*, 130 Ohio St.3d 353, 2011-Ohio-5756, 958 N.E.2d 566, ¶ 1.¹

Judgment affirmed.

O’CONNOR, C.J., and PFEIFER, O’DONNELL, LANZINGER, KENNEDY, FRENCH, and O’Neill, JJ., concur.

Douglas Lee Samples, pro se.

John D. Ferrero, Stark County Prosecuting Attorney, and Ronald Mark Caldwell, Assistant Prosecuting Attorney, for appellee.

1. We deny Samples’s motion to strike appellee’s brief. Although appellee’s brief does not comply with S.Ct.Prac.R. 16.03(B) because it does not include a table of contents and a table of authorities and we admonish appellee and her attorneys for such noncompliance, the brief need not be stricken, because Samples was able to timely respond to the brief and appellee’s brief provides the court with a statement of facts and the relevant legal arguments on the issues raised in this appeal. *See State ex rel. Physicians Comm. for Responsible Medicine v. Bd. of Trustees of Ohio State Univ.*, 108 Ohio St.3d 288, 2006-Ohio-903, 843 N.E.2d 174, ¶ 8-14.