

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Eubank v. McDonald*, Slip Opinion No. 2013-Ohio-72.]

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**SLIP OPINION NO. 2013-OHIO-72**

**THE STATE EX REL. EUBANK, APPELLANT, v. McDONALD, JUDGE, APPELLEE.**

**[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Eubank v. McDonald*, Slip Opinion No. 2013-Ohio-72.]**

*Mandamus—Writ of mandamus will not issue to compel the performance of a duty that has already been performed—Court of appeals’ judgment dismissing petition affirmed.*

(No. 2012-1526—Submitted January 9, 2013—Decided January 17, 2013.)

APPEAL from the Court of Appeals for Lucas County,  
No. L-12-1143, 2012-Ohio-3728.

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**Per Curiam.**

{¶ 1} We affirm the judgment dismissing the petition of appellant, James R. Eubank, for a writ of mandamus to compel appellee, Lucas County Court of Common Pleas Judge Frederick McDonald, to issue a new sentencing entry that complies with Crim.R. 32(C). Mandamus will not lie to compel an act that has

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already been performed. *State ex rel. Culgan v. Kimbler*, 132 Ohio St.3d 480, 2012-Ohio-3310, 974 N.E.2d 88. Eubank's sentencing entry fully complied with Crim.R. 32(C) and constituted a final, appealable order because it set forth the fact of his convictions, the sentence, the judge's signature, and the time stamp indicating its entry upon the journal by the clerk. *See State ex rel. Jones v. Ansted*, 131 Ohio St.3d 125, 2012-Ohio-109, 961 N.E.2d 192, ¶ 2. Notwithstanding Eubank's argument to the contrary, Crim.R. 32(C) did not require Judge McDonald to specify that some of the crimes for which he was convicted were lesser included offenses of the offenses charged in his indictment. The judge's sentencing entry contained a full resolution of the counts for which Eubank was convicted. *See State ex rel. Davis v. Cuyahoga Cty. Court of Common Pleas*, 127 Ohio St.3d 29, 2010-Ohio-4728, 936 N.E.2d 41, ¶ 2.

Judgment affirmed.

O'CONNOR, C.J., and PFEIFER, O'DONNELL, LANZINGER, KENNEDY, FRENCH and O'NEILL, JJ., concur.

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James R. Eubank, pro se.

Julia R. Bates, Lucas County Prosecuting Attorney, and Kevin A. Pituch, Assistant Prosecuting Attorney, for appellee.

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