

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

STATE EX REL. DORIAN HILL,	:	
Relator,	:	
		No. 109071
v.	:	
JUDGES OF THE COURT OF OF COMMON PLEAS,	:	
Respondent.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: WRIT DENIED
DATED: January 10, 2020

Writ of Mandamus
Motion No. 533114
Order No. 534447

Appearances:

Dorian Hill, *pro se*.

Michael C. O'Malley, Cuyahoga County Prosecuting
Attorney, and James E. Moss, Assistant Prosecuting
Attorney, *for respondent*.

LARRY A. JONES, SR., J.:

{¶ 1} Dorian Hill has filed a complaint for a writ of mandamus. Hill seeks an order from this court that compels Judge Peter J. Corrigan to render a ruling with regard to a motion to vacate the sentence originally imposed in *State v. Hill*,

Cuyahoga C.P. No. CR-88-226126 and enter a sentence that comports with Crim.R. 32(C).¹ Judge Corrigan has filed a motion for summary judgment that is granted for the following reasons.

{¶ 2} Attached to the motion for summary judgment are copies of judgment entries, journalized October 23, 2019, which demonstrate that Judge Corrigan has journalized a revised sentencing journal entry. Relief is unwarranted because mandamus will not compel the performance of a duty that has already been performed. *State ex rel. Williams v. Croce*, 153 Ohio St.3d 348, 2018-Ohio-2703, 106 N.E.3d 55; *State ex rel. Hopson v. Cuyahoga Cty. Court of Common Pleas*, 135 Ohio St.3d 456, 2013-Ohio-1911, 989 N.E.2d 49; *State ex rel. Fontanella v. Kontos*, 117 Ohio St.3d 514, 2008-Ohio-1431, 885 N.E.2d 220.

{¶ 3} In addition, to be entitled to the issuance of a writ of mandamus, Hill must satisfy three elements: (1) that he has no plain and adequate remedy at law; (2) he has a clear legal right to the relief sought; and (3) respondent has a legal duty to perform the requested act. *State ex rel. Howard v. Ferreri*, 70 Ohio St.3d 587, 589, 639 N.E.2d 1189 (1994). In relation to the “adequate remedy” element, the Supreme Court of Ohio has held that a direct appeal from a judgment of a trial court constitutes an adequate remedy at law because an appeal can achieve the same result as an action in mandamus. *State ex rel. Kerns v. Simmers*, 153 Ohio St.3d 103, 2016-Ohio-7677, 63 N.E.23d 155; *State ex rel. Hastings Mut. Ins. Co. v. Merillat*, 50 Ohio

¹Pursuant to Civ.R. 25(D)(1), Judge Peter J. Corrigan is substituted for the judge that was originally assigned to *State v. Hill*, Cuyahoga C.P. No. CR-88-226126.

St.3d 152, 154, 553 N.E.2d 646 (1990). Herein, Hill possesses or possessed an adequate remedy of law through an appeal from the revised sentencing judgment entry journalized on October 23, 2019. *State ex rel. Norris v. Wainwright*, Slip Opinion No. 2019-Ohio-4138; *State ex rel. McCuller v. Common Pleas Court*, 8th Dist. Cuyahoga No. 100143, 2013-Ohio-4929; *State ex rel. McGrath v. Ohio Adult Parole Auth.*, 8th Dist. Cuyahoga No. 82287, 2003-Ohio-1969.

{¶ 4} Accordingly, we grant Judge Corrigan's motion for summary judgment. Costs to Hill; costs waived. The court directs the clerk of courts to serve all parties with notice of this judgment and the date of entry upon the journal as required by Civ.R. 58(B).

{¶ 5} Writ denied.

LARRY A. JONES, SR., JUDGE

SEAN C. GALLAGHER, P. J., and
ANITA LASTER MAYS, J., CONCUR