

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

STATE EX REL. AGATHA MARTIN
WILLIAMS,

:

Relator,

:

No. 109326

v.

:

BUREAU OF SENTENCE
COMPUTATION, ET AL.,

:

Respondents.

:

JOURNAL ENTRY AND OPINION

JUDGMENT: COMPLAINT DISMISSED

DATED: August 7, 2020

Writ of Mandamus
Motion No. 535596
Order No. 540260

Appearances:

Agatha Martin Williams, *pro se*.

Dave Yost, Ohio Attorney General, and George Horvath,
Assistant Ohio Attorney General, *for respondents*.

SEAN C. GALLAGHER, J.:

{¶ 1} Agatha Martin Williams has filed a complaint for a writ of mandamus. Williams requests that this court order the Bureau of Sentence Computation (“BOSC”) and the Ohio Dept. of Rehabilitation and Correction (“ODRC”) to:

1) recalculate and provide additional credit toward her sentence of incarceration that was earned as the result of participation in inmate programs; and 2) reclassification within the internal inmate records kept by the BOSC and the ODRC as a HB 86 offender instead of a SB 2 offender. For the following reasons, we decline to issue a writ of mandamus on behalf of Williams.

I. FACTS

{¶ 2} In February 2012, Williams plead guilty to one count of forgery, four counts of grand theft, and one count of theft. Williams was sentenced to a term of incarceration of eight and a half-years (102 months), but placed on community control in *State v. Williams*, Stark C.P. No. 2012-CR-0164. Williams violated the terms of her community control and the sentence of 102 months of incarceration was ordered into effect. In December 2017, Williams filed a complaint for a declaratory judgment, in *Williams v. Bureau of Sentence Computation*, Cuyahoga C.P. No. CV-17-889847, through which she sought additional credits toward her sentence based upon R.C. 2967.193 and Ohio Adm. Code 5120-2-06(K)(4). The trial court, on July 31, 2018, held that:

In her petition for declaratory judgment, filed December 1, 2017, Williams seeks a declaration regarding the sentencing legislation under which she was sanctioned to prison. Williams maintains she was sentenced under House Bill 86 and thus entitled to five days of earned credit each month of successful participation and completion of educational programming under R.C. 2967.193(D)(5). Further, Williams asserts that, pursuant to O.A.C. 5120-2-06(J)(4), she is entitled to five days of credit for each month of participation. In its motion for summary judgment, BSC agrees that Williams was sentenced under House Bill 86, but maintains she is limited to one day of earned credit per month because her offenses were committed prior

to September 30, 2011. The court finds the argument of BSC to have merit. For the following reasons, summary judgment is granted in favor of the defendant BSC and against plaintiff Williams.

The parties do not dispute the facts. Williams was charged on February 16, 2012 with one count of forgery, four counts of grand theft, and one count of theft, which offenses were committed against clients of Williams in her capacity as their attorney between December 21, 2007 and February 28, 2011. Williams pled guilty on February 16, 2012 and was sentenced to five years of community control, among other sanctions; she also was advised at sentencing that a violation of community control would result in a maximum consecutive prison term for each charge, for total of 102 months.

On September 27, 2012 Williams revealed during disciplinary proceedings that she had violated conditions of her community control sentence. The trial court subsequently revoked Williams' probation and sentenced her to 102 months incarceration. Williams appealed the consecutive nature of her sentence, and the appellate court determined that the trial court did not make the requisite findings under 2929.14(C)(4) (as amended by H.B. 86) that consecutive sentences were appropriate. The case was remanded to the trial court for resentencing. At resentencing, the trial court found consecutive sentences were appropriate, made the statutorily required findings, and sentenced Williams to 102 months incarceration. Williams subsequently has been awarded one day of earned time credit for each month that she has been incarcerated for successfully completed qualifying programs under R.C. 2967.193(A) and (D)(5). In denying her appeal to receive five days of credit, the Division of the Chief Inspector on Grievance Appeal at NEPRC mistakenly indicated that he determined that Williams was sentenced under Senate Bill 2.

House Bill 86 became effective September 30, 2011. The section that relates to Williams' sentence states: "except as provided in division (C) of this section, if the most serious offense for which the offender is confined is a felony of the third, fourth, or fifth degree or an unclassified felony and neither division (D)(2) nor (3) of this section applies to the offender, the offender may earn one day of credit under division (A) of this section if the offender committed that offense prior to September 30, 2011, and the offender may earn five days of credit under division (A) of this section if the offender committed that offense on or after September 30, 2011." R.C. 2967.193 (2012). The statute remains the same in its current form.

Upon consideration of the relevant law and evidence, the court finds that there is no genuine issue of material fact and, after construing the undisputed evidence in light most favorable to the non-moving parties, reasonable minds can come only to the conclusion that defendant BSC is entitled to judgment in its favor as a matter of law. The court declares that Williams was sentenced under H.B. 86, and further declares that Williams is thus entitled to one day of earned credit per month under R.C. 2967.193 and OAC 5120-2- 06(J)(4) based upon the dates upon which Williams committed the underlying offenses for which she currently is incarcerated. Although the Department of Rehabilitation and Correction has promulgated unartfully worded brochures and notices regarding earned credit in prison which Williams believes entitles her to five days credit per month, that does not change the clear language of the statute indicating that Williams is entitled to only one day of credit per month due to her offenses being committed prior to September 30, 2011. BSC's motion for summary judgment is granted; Williams' motion for summary judgment is denied.

{¶ 3} Williams appealed the trial court's judgment and this court, in *Williams v. Bur. of Sentencing & Computation*, 8th Dist. Cuyahoga No. 107626, 2019-Ohio-997, affirmed the judgment of the trial court and held that:

Williams maintains that she was sentenced under House Bill 86 and therefore, under R.C. 2967.193(D)(5), she is entitled to five days of earned credit for each month of successful participation and completion of educational programming.

In the instant case, there is no dispute that Williams was sentenced under House Bill 86. BOSCO agrees Williams was sentenced under House Bill 86. The record is also clear that the appeals court remanded Williams's case for the trial court to make appropriate findings, before imposing consecutive sentences, required following the enactment of House Bill 86. *Williams*, 2013-Ohio-3448 at 23-25.

In the trial court's well-reasoned decision, it stated in pertinent part as follows: "The Court declares that Williams was sentenced under H.B. 86, and further declares that Williams is thus entitled to one day of earned credit per month under R.C. 2967.193 and OAC 5120-2-06(J)(4) based upon the dates upon which Williams committed the underlying offenses for which she currently is incarcerated."

The parties agree that R.C. 2967.193(D)(5) determines the amount of credit to which Williams is entitled. R.C. 2967.193(D)(5) provides:

“Except as provided in division (C) of this section, if the most serious offense for which the offender is confined is a felony of the third, fourth, or fifth degree or an unclassified felony and neither division (D)(2) nor (3) of this section applies to the offender, the offender may earn one day of credit under division (A) of this section if the offender committed that offense prior to September 30, 2011, and the offender may earn five days of credit under division (A) of this section if the offender committed that offense on or after September 30, 2011.”

It is undisputed from the record that the bill of information that charged Williams with one count of forgery, four counts of grand theft, and one count of theft, indicated that the offenses were committed against her client between December 2007 and February 2011. The above statute states: “the offender may earn one day of credit under division (A) of this section if the offender committed that offense prior to September 30, 2011.” Therefore, based on the plain reading of the statute, Williams is entitled to one day of earned credit per month, not five days as she contends.

The interpretation of a statute is an issue of law, which we review de novo. *See, e.g., State v. Vanzandt*, 142 Ohio St.3d 223, 2015-Ohio-236, 28 N.E.3d 1267, ¶ 6. Where, as here, a statute is unambiguous and definite, we must apply the plain meaning of the statute as written. *In re J.Y.*, 8th Dist. Cuyahoga No. 2018-Ohio-2405, 114 N.E.3d 1221, citing *Antoon v. Cleveland Clinic Found.*, 148 Ohio St.3d 483, 2016-Ohio-7432, 71 N.E.3d 974, ¶ 20 (“An unambiguous statute must be applied in a manner consistent with the plain meaning of the statutory language[.]”), quoting *State ex rel. Burrows v. Indus. Comm.*, 78 Ohio St. 3d 78, 81, 1997-Ohio-310, 676 N.E.2d 519 (1997).

Based on the plain meaning of R.C. 2967.193(D)(5) and the date Williams committed the charged offenses, there is no genuine issue of material fact and BOSCO was entitled to judgment as a matter of law. Therefore, the trial court did not err when it granted BOSCO’s motion for summary judgment.

Williams, supra at ¶ 12.

{¶ 4} On December 24, 2019, Williams filed her complaint for a writ of mandamus. On January 29, 2020, the BOSC and the ODRC filed a joint motion to dismiss. For the following reasons, we grant the joint motion to dismiss.

II. MANDAMUS REQUIREMENTS AND ANALYSIS

{¶ 5} Williams, in order to be entitled to a writ of mandamus, must demonstrate that: (1) she possesses a clear legal right to have the BOSC and ODRC recalculate and provide additional credit toward her sentence of incarceration that was earned as the result of participation in inmate programs; and reclassification within the internal inmate records kept by the BOSC and the ODRC as a HB 86 offender instead of a SB 2 offender; (2) the BOSC and ODRC possesses a clear duty to immediately recalculate and provide additional credit toward her sentence of incarceration that was earned as the result of participation in inmate programs; and reclassification within the internal inmate records kept by the BOSC and the ODRC as a HB 86 offender instead of a SB 2 offender; and (3) Williams possesses or possessed no plain and adequate remedy in the ordinary course of the law. *State ex rel. Kerns v. Simmers*, 153 Ohio St.3d 103, 2018-Ohio-256, 1010 N.E. 3d 430; *State ex rel. Berger v. McMonagle*, 6 Ohio St.3d 28, 451 N.E.2d 225 (1983). Moreover, mandamus is an extraordinary remedy that is to be exercised with caution and only when the right is clear. Mandamus will not issue in doubtful cases. *State ex rel. Taylor v. Glasser*, 50 Ohio St.2d 165, 364 N.E.2d 1 (1977); and *State ex rel. Connoles v. Cleveland Bd. of Edn.*, 87 Ohio App.3d 43, 621 N.E.2d 850 (8th Dist.1993).

{¶ 6} Initially, we find that Williams is not entitled to a writ of mandamus based upon the application of the doctrine of res judicata. The doctrine of res judicata encompasses the two related concepts of claim preclusion, also known as res judicata or estoppel by judgment, and issue preclusion, also known as collateral estoppel. Claim preclusion prevents subsequent actions, by the same parties or their privies, based upon any claim arising out of a transaction that was the subject matter of a previous action. Where a claim could have been litigated in the previous suit, claim preclusion also bars subsequent actions on that matter. Issue preclusion, on the other hand, serves to prevent relitigation of any fact or point that was determined by a court of competent jurisdiction in a previous action between the same parties or their privies. Issue preclusion applies even if the causes of action differ. *Fort Frye Teachers Assn. v. State Emp. Relations Bd.*, 81 Ohio St.3d 392, 692 N.E.2d 140 (1998); *Grava v. Parkman Twp.*, 73 Ohio St.3d 379, 653 N.E.2d 226 (1995).

{¶ 7} The issue of additional earned credit toward the sentence of incarceration imposed upon Williams has already been litigated by the trial court and affirmed upon appeal, based upon R.C. 2967.193(D)(5) and Ohio Adm. Code 5120-2-06(J)(4). Thus, the doctrine of res judicata bars any further review of the issue of additional earned credit toward the sentence of incarceration. *State ex rel. Peoples v. Schneider*, Slip Opinion No. 2020-Ohio-1071; *Jackson v. Johnson*, 135 Ohio St.3d 364, 2013-Ohio-999, 586 N.E.2d 989.

{¶ 8} Finally, in the absence of evidence of any present injury, it is well-established that declaratory judgment is an adequate remedy at law to correct prison records. *Turner v. Dept. of Rehab. & Corr.*, 144 Ohio St.3d 377, 2015-Ohio-2833, 43 N.E.3d 435. A prisoner possesses an adequate remedy in the ordinary course of the law through an action in declaratory judgment filed in the common pleas court in order to correct a prison record. *State ex rel. Earl v. Shafer*, 85 Ohio St.3d 370, 708 N.E.2d 714 (1999). Williams has failed to demonstrate any present injury because the determination of any earned credit toward her sentence of incarceration was made under HB 86 and not SB 2.

III. CONCLUSION

{¶ 9} We find that Williams has failed to establish that she possesses a clear legal right to have the BOSC and ODRC recalculate and provide additional credit toward her sentence of incarceration and reclassification within the internal inmate records kept by the BOSC and the ODRC as a HB 86 offender instead of a SB 2 offender. We further find that Williams has failed to establish that the BOSC and ODRC possesses a clear duty to immediately recalculate and provide additional credit toward her sentence of incarceration and reclassification within the internal inmate records kept by the BOSC and the ODRC as a HB 86 offender instead of a SB 2 offender. Finally, Williams has or had an opportunity to avail herself of an adequate remedy at law through a declaratory judgment and an appeal from any judgment issued by a court of competent jurisdiction.

{¶ 10} Accordingly, we grant the joint motion to dismiss. Costs to Williams. 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).

{¶ 11} Complaint dismissed.

SEAN C. GALLAGHER, JUDGE

EILEEN T. GALLAGHER, A.J., and
RAYMOND C. HEADEN, J., CONCUR