

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

State of Ohio, ex rel. Darek Lathan

Court of Appeals No. L-07-1112

Relator

v.

Honorable James Jensen

DECISION AND JUDGMENT ENTRY

Respondent

Decided: May 18, 2007

* * * * *

Darek Lathan, pro se.

Julia R. Bates, Lucas County Prosecuting Attorney, and
John A. Borell, Assistant Prosecuting Attorney, for appellee.

* * * * *

OSOWIK, J.

{¶ 1} This matter is pending before the court on a motion to dismiss filed by respondent, in response to an alternative writ issued by this court to respondent on April 20, 2007.

{¶ 2} On April 2, 2007, relator filed a petition for a writ of procedendo requesting a court order directing respondent to compel the "bureau of sentence computation" to

remove three years from relator's sentence which he argues are in excess of the actual sentence imposed by the trial court.

{¶ 3} On April 9, 2007, respondent issued an order denying relator's motion to compel the "bureau of sentence computation" to delete three years from relator's sentence. In support of its denial of relator's motion, the respondent noted that relator was convicted of aggravated robbery with a firearm specification in case No. CR98-2941. The mandatory three year term of incarceration for that firearm specification was ordered to run consecutive to relator's sentence in case No. CR03-1194, which did not include a firearm specification. Accordingly, the trial court denied relator's motion to compel.

{¶ 4} We find relator's petition for writ of procedendo moot in light of the trial court order disposing of the issues underlying same dated April 9, 2007.

{¶ 5} Wherefore, we find respondent's motion to dismiss well-taken and hereby grant same. Relator is hereby ordered to pay the costs. It is so ordered.

MOTION GRANTED.

Mark L. Pietrykowski, P.J.

JUDGE

Arlene Singer, J.

JUDGE

Thomas J. Osowik, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at: http://www.sconet.state.oh.us/rod/newpdf/?source=6.
