

[Cite as *State ex rel. Lewis v. Fuerst*, 2002-Ohio-657.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 80666

S/O EX REL. HENRY LEWIS	:	
	:	PETITION FOR WRIT OF
Relator	:	
	:	MANDAMUS
vs.	:	
	:	<i>JOURNAL ENTRY AND OPINION</i>
GERALD E. FUERST,	:	
CLERK OF COURTS	:	MOTION NO. 35136
	:	
Respondent	:	

DATE OF JOURNALIZATION: FEBRUARY 21, 2002

JUDGMENT: WRIT DENIED.

APPEARANCES:

For Relator:	Henry Lewis, <i>Pro Se</i>
	Inmate No. 408-736
	P. O. Box 8107
	RICI
	Mansfield, Ohio 44901

For respondent:	WILLIAM D. MASON
	Cuyahoga County Prosecutor
	DIANE SMILANICK
	Assistant County Prosecutor
	8 <sup>th</sup> Floor Justice Center
	1200 Ontario Street
	Cleveland, Ohio 44113

PATRICIA ANN BLACKMON, P.J.:

{¶1} The relator, Henry Lewis, has filed a complaint for a writ of mandamus. The relator seeks an order from this Court which requires the named respondent, Gerald Fuerst, Clerk of Courts, to grant jail-time credit in the underlying cases of *State v. Lewis*, Cuyahoga County Court of Common Pleas Case Nos. CR-397575 and CR-400408. The respondent has filed a motion for summary judgment.

{¶2} The relator's request for a writ of mandamus must fail since the respondent, as the Clerk of Courts for the Cuyahoga County Court of Common Pleas, possesses no legal duty to grant jail-time credit. Such duty strictly lies with the trial judge that originally imposed the sentence of incarceration in *State v. Lewis, supra*. Cf. *State ex rel. Corder v. Wilson* (1991), 68 Ohio App.3d 567, 589 N.E.2d 113; *State ex rel. Johnson v. O'Donnell* (Oct. 4, 1994), Cuyahoga App. No. 67783, unreported. In addition, attached to the respondent's motion for summary judgment are copies of two judgments, as journalized on September 17, 2001, which demonstrate that the relator has been granted jail-time credit in both CR-397575 and CR-400408. Thus, the relator's request for a writ of mandamus is also moot. *State ex rel. Gantt v. Coleman* (1983), 6 Ohio St.3d 5, 450 N.E.2d 1163; *State ex rel. Jerningham v. Cuyahoga County Court of Common Pleas* (1996), 74 Ohio St.3d 278, 658 N.E.2d 723.

{¶3} Accordingly, we grant the respondent's motion for summary judgment. Costs to relator. It is further ordered that the Clerk

of the Eighth District Court of Appeals shall serve upon all parties, pursuant to Civ.R. 58(B), notice of this judgment and date of entry.

Writ denied.

ANNE E. KILBANE, J., and

JAMES J. SWEENEY, J., CONCUR.

PATRICIA ANN BLACKMON  
PRESIDING JUDGE