

[Cite as *State ex rel. Summers v. Saffold*, 2003-Ohio-3542.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

No. 82546

S/O, EX REL; TOMMY SUMMERS	:	ORIGINAL ACTION
	:	
	:	JOURNAL ENTRY
Relator	:	AND
	:	OPINION
vs.	:	
	:	
JUDGE SHIRLEY S. SAFFOLD	:	
	:	
Respondent	:	

DATE OF JOURNALIZATION: JULY 1, 2003

CHARACTER OF PROCEEDINGS: WRIT OF PROCEDENDO

JUDGMENT: Writ Allowed  
Motion No. 349911

APPEARANCES:

For Relator: TOMMY SUMMERS, PRO SE  
Inmate No. 432-533  
Pickaway Correctional Inst.  
P.O. Box 209  
Cleveland, Ohio 43146

For Respondent: WILLIAM D. MASON, ESQ.  
Cuyahoga County Prosecutor  
Justice Center - 9<sup>th</sup> Floor  
1200 Ontario Street  
Cleveland, Ohio 44113

ANNE L. KILBANE, J.:

{¶1} Tommy Summers, requests that this court compel Judge Shirley Strickland

Saffold to enter judgment on his motion for jail time credit in *State v. Summers*, Cuyahoga County Court of Common Pleas Case No. CR-423345 filed on August 14, 2002.

{¶2} No response has been filed to the complaint. For the reasons stated below, we grant relief in procedendo sua sponte.

{¶3} A review of the docket in Case No. CR-423345 reflects that, although the judge has granted Summers' motion and stated "sheriff to calculate," she has yet to indicate the number of days of jail time credit.

**"[A] trial court possesses a clear legal duty to specify in the record of conviction and sentence the number of days a person was confined prior to conviction and sentence. *State ex rel. Johnson v. O'Donnell* (Oct. 4, 1994), Cuyahoga App. No. 67783, unreported; *State ex rel. Andrews v. Corrigan* (Oct. 11, 1991), Cuyahoga App. No. 62253, unreported."**

**"In the case *sub judice*, mandamus lies since the relator is entitled to a credit for any incarceration that occurred prior to conviction and sentence, the trial court possesses a clear legal duty to calculate and state in a journal entry the number of days the relator was incarcerated prior to conviction and sentence, and the relator possess[es] no plain and adequate remedy at law. In addition, a statement or letter issued by the Cuyahoga County Sheriff, which states the number of days of pre-conviction jail time credit, does not discharge the respondent's duty to specify the amount of pre-conviction jail time credit in a journal entry. Cf. *State ex rel. Wright v. Court of Common Pleas* (Nov. 6, 1995), Cuyahoga App. No. 69200, unreported; *State ex rel. Goolsby v. Cleary* (Aug. 14, 1995), Cuyahoga App. No. 69119, unreported; *State ex rel. Spruce v. Cleary* (Aug. 17, 1995), Cuyahoga App. No. 69047, unreported."<sup>1</sup>**

Likewise, in this case, the judge has not discharged her duty to specify the number of days jail time credit and relief in procedendo is appropriate.

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<sup>1</sup> *State ex rel. Ezell v. Corrigan* (Oct. 7, 1999), Cuyahoga App. No. 76722, at 2-3.

{¶4} Accordingly, we grant the request for relief in procedendo. Within 14 days of the date of this entry, the judge is ordered to issue a journal entry that specifies the number of days Summers was incarcerated prior to conviction and sentencing in Case No. CR-423345. The clerk is directed to serve upon the parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

Writ allowed.

ANNE L. KILBANE  
PRESIDING JUDGE

JUDGE ANN DYKE, J., CONCURS

SEAN C. GALLAGHER, J., CONCURS