

[Cite as *State ex rel. Horton v. Villanueva*, 2005-Ohio-2315.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

No. 86077

STATE OH OHIO, EX REL.,	:	ORIGINAL ACTION
DERIK HORTON	:	
	:	JOURNAL ENTRY
Relator	:	AND
	:	OPINION
vs.	:	
	:	
JOSE A. VILLANUEVA, JUDGE	:	
	:	
Respondent	:	

DATE OF JOURNALIZATION: MAY 10, 2005

CHARACTER OF PROCEEDINGS: WRIT OF MANDAMUS

JUDGMENT: Complaint Dismissed.
Motion No. 370582
Order No. 370957

APPEARANCES:

For Relator: DERIK HORTON, pro se
Inmate No. 359-151
Mansfield Correctional Inst.
P.O. Box 788
Mansfield, Ohio 44901

For Respondent: WILLIAM D. MASON
Cuyahoga County Prosecutor
BY: T. ALLAN REGAS
Assistant County Prosecutor
Justice Center - 9th Floor
1200 Ontario Street
Cleveland, Ohio 44113

JUDGE KENNETH A. ROCCO:

{¶1} Derik Horton has filed a complaint for a writ of mandamus. Horton seeks an order from this court which requires Judge Jose A. Villanueva to render a ruling with regard to a "motion to re-align sentence pursuant to *State v. Comer*" as filed in the underlying criminal actions of *State v. Horton*, Cuyahoga County Court of Common Pleas Case Nos. CR-364127 and CR-362588. Judge Villanueva has filed a motion to dismiss.

{¶2} Attached to Judge Villanueva's motion to dismiss is a copy of a judgment entry, as journalized on April 8, 2005, which demonstrates that a ruling has been rendered with regard to Horton's "motion to re-align sentence pursuant to *State v. Comer*".

Horton's request for a writ of mandamus is thus moot. *State ex rel. Konoff v. Shafer*, 80 Ohio St.3d 294, 1997-Ohio-119, 685 N.E.2d 1248; *Martin v. Judges of the Lucas Cty. Court of Common Pleas* (1990), 50 Ohio St.3d 71, 532 N.E.2d 906.

{¶3} Accordingly, we grant Judge Villanueva's motion to dismiss. Costs to Judge Villanueva. It is further ordered that the Clerk of the Eighth District Court of Appeals shall serve notice of this judgment upon all parties as required by Civ.R. 58(B).

Dismissed.

KENNETH A. ROCCO
JUDGE

FRANK D. CELEBREZZE, JR., J., CONCURS

ANN DYKE, P.J., CONCURS