

[Cite as *State ex rel. Ohio Adult Parole Auth.*, 2006-Ohio-86.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

No. 87223

STATE OF OHIO, EX REL.,	:	ORIGINAL ACTION
CURTIS L. SIMPKINS	:	
	:	JOURNAL ENTRY
Relator	:	AND
	:	OPINION
vs.	:	
	:	
OHIO ADULT PAROLE AUTHORITY	:	
	:	
Respondent	:	

DATE OF JOURNALIZATION: JANUARY 11, 2006

CHARACTER OF PROCEEDINGS: WRIT OF MANDAMUS

JUDGMENT: Complaint Dismissed.
Motion No. 379481
Order No. 379690

APPEARANCES:

For Relator: CURTIS L. SIMPKINS, pro se
Inmate No. 359-782
Grafton Correctional Institution
2500 South Avon Belden Road
Grafton, Ohio 44044

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

JUDGE MICHAEL J. CORRIGAN:

{¶ 1} Curtis L. Simpkins has filed a complaint for a writ of mandamus. Simpkins seeks an order from this court which prevents the Ohio Adult Parole Authority ("OAPA") from imposing a requirement of post-release control supervision upon his release from prison. The OAPA has filed a motion to dismiss which we grant for the following reasons.

{¶ 2} Attached to the motion to dismiss is a copy of a judgment entry which demonstrates that Simpkins was re-sentenced by the trial court, in the underlying action of *State v. Simpkins*, Cuyahoga County Court of Common Pleas Case No. CR-358419, on December 28, 2005. Post-release control was made a part of the original sentence as a result of the re-sentencing. Thus, Simpkins' complaint for a writ of mandamus is moot. *State ex rel. Jerningham v. Cuyahoga County Court of Common Pleas*, 74 Ohio St.3d 278, 1996-Ohio-117; *State ex rel. Gantt v. Coleman* (1983), 6 Ohio St.3d 5, 450 N.E.2d 1163. In addition, any possible error associated with the re-sentencing of December 28, 2005, is subject to an immediate appeal and prevents this court from issuing a writ of mandamus as based upon the issue of post-release control supervision. Cf. *State ex rel. Carter v. Wilkinson*, 70 Ohio St.3d 65, 1994-Ohio-245.

{¶ 3} Accordingly we grant the motion to dismiss. Costs to Simpkins. It is further ordered that the Clerk of the Eighth District Court of Appeals serve notice of this judgment upon all

parties as required by Civ.R. 58(B).

Complaint dismissed.

MICHAEL J. CORRIGAN
JUDGE

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

MARY EILEEN KILBANE, J., CONCURS