

[Cite as *State ex rel. Collins v. Gaul*, 2009-Ohio-2889.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 93107

**STATE OF OHIO, EX REL.,
JAMES COLLINS**

RELATOR

VS.

DANIEL GAUL, JUDGE

RESPONDENT

**JUDGMENT:
WRIT DENIED**

WRIT OF MANDAMUS
MOTION NO. 421367
ORDER NO. 422973

RELEASE DATE: June 17, 2009

FOR RELATOR:

James Collins, pro se
Inmate No. 551-720
P.O. Box 540
St. Clairsville, Ohio 43950

ATTORNEYS FOR RESPONDENT:

William D. Mason
Cuyahoga County Prosecutor

By: James E. Moss
Assistant County Prosecutor
8th Floor Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

KENNETH A. ROCCO, J.:

{¶ 1} Relator, James Collins, filed this action in mandamus on April 7, 2009. He requests that this court compel respondent judge to dispose of his motion for jail time credit, which he filed in *State v. Collins*, Cuyahoga County Court of Common Pleas Case No. CR-510524, on August 18, 2008. By entry received for filing on September 3, 2008, respondent ordered the sheriff's department to calculate the amount of jail time credit. Collins filed a second motion for jail time credit on January 5, 2009.

{¶ 2} Respondent has filed a motion for summary judgment, attached to which is a copy of a journal entry issued by respondent and received for filing by the

clerk on April 23, 2009, in which respondent granted relator 64 days jail time credit.¹ Relator has not opposed the motion. Respondent argues that this action in mandamus is, therefore, moot. We agree.

{¶ 3} Accordingly, respondent's motion for summary judgment is granted. Respondent to pay costs. 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 denied.

KENNETH A. ROCCO, JUDGE

SEAN C. GALLAGHER, P.J., and
FRANK D. CELEBREZZE, JR., J., CONCUR

¹ This court recently reaffirmed the well-settled principle that “a trial court has the clear legal duty to specify in the record of conviction and sentence the number of days a defendant was confined prior to conviction. Ohio Adm. Code 5120-2-04(B); *State ex rel. Rankin v. Ohio Adult Parole Authority*, 98 Ohio St.3d 476, 2003-Ohio-2061, 786 N.E.2d 1286; and *State ex rel. Corder v. Wilson* (1991), 68 Ohio App.3d 567, 589 N.E.2d 113. Moreover, summary denial of a motion for jail time credit, without specifying the number of days due as jail time credit does not fulfill the trial court's legal duty. *Sanchez, State ex rel. Wright v. Court of Common Pleas* (Nov. 6, 1995), Cuyahoga App. No. 69200; *State ex rel. Goolsby v. Cleary* (Aug. 14, 1995), Cuyahoga App. No. 69119; and *State ex rel. Spruce v. Cleary* (Aug. 17, 1995), Cuyahoga App. No. 69047.” *State ex rel. Jones v. McMonagle*, Cuyahoga App. No. 92401, 2009-Ohio-1601, at ¶6.