

[Cite as *State ex rel. Valenzona v. Saffold*, 2009-Ohio-4379.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 93668

**STATE OF OHIO, EX REL.,
PIERSON VALENZONA**

RELATOR

VS.

HON. JUDGE SHIRLEY STRICKLAND SAFFOLD

RESPONDENT

**JUDGMENT:
WRIT DENIED**

WRIT OF MANDAMUS
MOTION NO. 425215
ORDER NO. 425492

RELEASE DATE: August 25, 2009

FOR RELATOR

Pierson Valenzona, pro se
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SEAN C. GALLAGHER, J.:

{¶ 1} Pierson Valenzona has filed a complaint for a writ of mandamus. Valenzona seeks an order from this court, which requires Judge Shirley Strickland-Saffold to correct a clerical mistake made in the sentencing journal entry that was entered in *State v. Valenzona*, Cuyahoga County Court of Common Pleas Case No. CR-481966. Specifically, Valenzona requests that Judge Saffold merge the conviction for the offense of gross sexual imposition into his conviction for the offense of kidnaping, pursuant to the order of this court rendered in *State v. Valenzona*, Cuyahoga App. No. 89099, 2007-Ohio-6892.

{¶ 2} Valenzona's request for a writ of mandamus is moot. Attached to Judge Saffold's motion for summary judgment is a copy of a judgment entry, journalized on August 11, 2009, which demonstrates that "defendant's 18 months sentence on count two (gross sexual imposition) is hereby vacated as it merges with defendant's 9 year sentence on count three (kidnaping)." This court will not compel the performance of a duty that has already been performed. *State ex rel. Snider v. Stapleton* (1992), 65 Ohio St.3d 40, 600 N.E.2d 240; *State ex rel. Richard v. Wells* (1992), 64 Ohio St.3d 76, 591 N.E.2d 1240.

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

Writ denied.

SEAN C. GALLAGHER, PRESIDING JUDGE

MELODY J. STEWART, J., and
LARRY A. JONES, J., CONCUR