

[Cite as *State ex rel. Coleman v. Ambrose*, 2009-Ohio-6113.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 93972

**STATE OF OHIO, EX REL.,
JIMMY COLEMAN**

RELATOR

VS.

HONORABLE JUDGE DICK AMBROSE

RESPONDENT

**JUDGMENT:
WRIT DENIED**

WRIT OF MANDAMUS
MOTION NO. 427094
ORDER NO. 427963

RELEASE DATE: November 17, 2009

FOR RELATOR

Jimmy Coleman, pro se
Inmate No. A542-572
Lake Erie Correctional Institution
501 Thompson Road
P.O. Box 8000
Conneaut, Ohio 44030

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

JAMES J. SWEENEY, J.:

{¶ 1} Relator, Jimmy Coleman, requests that this court compel respondent judge to enter judgment on the motion for jail-time credit which he filed on September 3, 2008 in *State v. Coleman*, Cuyahoga County Court of Common Pleas Case No. CR-504274. The docket in Case No. CR-504274 reflects that Coleman also filed a motion for jail-time credit on May 1, 2009. Prior to the filing of this action on September 23, 2009, respondent had not disposed of either motion for jail-time credit.

{¶ 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 September 30, 2009, in which respondent granted relator 49 days jail-time credit. Relator has not opposed the motion. Respondent argues that this action in mandamus is, therefore, moot. We agree.

{¶ 3} Coleman has filed an affidavit of indigency, but he has failed to include a certified copy of the prison cashier's statement of the balance in his inmate account as required by R.C. 2969.25(C). *State ex rel. Bristow v. Sidoti* (Dec. 1, 2000), Cuyahoga App. No. 78708, at 3-4. Although we deny relator's claim of indigency, we note that Coleman filed his first motion for jail-time credit more than a year before commencing this action. See Sup.R. 40(A)(3) (motions shall be ruled upon within one hundred twenty days). Under the circumstances, therefore, we order respondent to pay costs.

{¶ 4} 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.

JAMES J. SWEENEY, JUDGE

FRANK D. CELEBREZZE, P.J., and
LARRY A. JONES, J., CONCUR

