

[Cite as *State ex rel. Fields v. McGinty*, 2009-Ohio-6476.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 94288

**STATE OF OHIO EX REL.,
JAMES A. FIELDS**

RELATOR

VS.

HONORABLE JUDGE TIMOTHY J. MCGINTY

RESPONDENT

**JUDGMENT:
COMPLAINT DISMISSED**

Writ of Mandamus
Order No. 428875

RELEASE DATE: December 8, 2009

FOR RELATOR

James A. Fields, Jr., pro se
Inmate No. 551-686
P.O. Box 59
Nelsonville, Ohio 45764

ATTORNEYS FOR RESPONDENT

William D. Mason
Cuyahoga County Prosecutor

BY: Jennifer A. Driscoll
Assistant County Prosecutor
8th Floor Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

LARRY A. JONES, J.:

{¶ 1} Relator, James A. Fields, is the defendant in *State v. Fields*, Cuyahoga County Court of Common Pleas Case No. CR-482857. Respondent initially sentenced him to 12 years, four consecutive three-year terms. On appeal, this court held that the court of common pleas erred in imposing consecutive sentences and remanded the case. On remand, respondent resentenced Fields to concurrent terms of nine years on three counts and seven years on another count.

{¶ 2} Fields requests that this court issue a writ of mandamus “instructing the Respondent to give Relator the original sentence of three (3) years * * *.”

Complaint, ad damnum clause. For the reasons stated below, we dismiss this action sua sponte.

{¶ 3} We find that *State ex rel. Hughley v. McMonagle*, 123 Ohio St.3d 91, 2009-Ohio-4088, 914 N.E.2d 371, is controlling in this action. “We affirm the judgment of the court of appeals denying the petition of appellant, Kevin Hughley, for a writ of mandamus to compel appellee, Cuyahoga County Common Pleas Court Judge Timothy McMonagle, to resentence him to correct an allegedly improper resentencing order. Hughley ‘has or had adequate remedies in the ordinary course of law, e.g., appeal and postconviction relief, for review of any alleged sentencing error.’ *State ex rel. Jaffal v. Calabrese*, 105 Ohio St.3d 440, 2005-Ohio-2591, 828 N.E.2d 107, ¶5; see also *State ex rel. Hughley v. McMonagle*, 121 Ohio St.3d 536, 2009-Ohio-1703, 905 N.E.2d 1220, ¶1.” *Id.* at ¶1.

{¶ 4} Likewise, in this action, Fields has the same remedies available to him. As a consequence, his complaint in mandamus fails to state a claim upon which relief can be granted.

{¶ 5} Accordingly, we dismiss this action sua sponte. Relator 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).

Complaint dismissed.

LARRY A. JONES, JUDGE

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