

[Cite as *State ex rel. Gill v. Reid*, 2010-Ohio-1934.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 94776

**STATE OF OHIO, EX REL.
RYAN GILL**

RELATOR

VS.

SHERIFF BOB REID

RESPONDENT

**JUDGMENT:
WRIT DENIED**

Writ of Mandamus
Motion No. 432330
Order No. 432561

RELEASE DATE: April 21, 2010

FOR RELATOR

Ryan Gill, pro se
Inmate No. 521-639
Richland Correctional Institution
P.O. Box 8107
Mansfield, Ohio 44901

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

MARY J. BOYLE, J.:

{¶ 1} Ryan Gill has filed a complaint for a writ of mandamus. Gill seeks an order from this court, which requires Cuyahoga County Sheriff Bob Reid to calculate and forward to the Ohio Bureau of Sentence Computation, a document that provides he is entitled to three hundred and four (304) days of pre-conviction jail-time credit in the underlying case of *State v. Gill*, Cuyahoga County Court of Common Pleas case No. CR-479019. Sheriff Reid has filed a motion for summary judgment, which we grant for the following reasons.

{¶ 2} Gill has failed to establish that he is entitled to a writ of mandamus. In order for this court to issue a writ of mandamus, Gill must affirmatively establish each prong of the following three-part test: (1) Gill possesses a clear legal right to the requested relief; (2) Sheriff Reid possesses a clear legal duty; and (3) there exists no other adequate remedy in the ordinary exercise of the law. *State ex rel. Harris v. Rhodes* (1978), 54 Ohio St.2d 41, 374 N.E.2d 641; *State ex rel. National City Bank v. Bd. of Edn.* (1977), 52 Ohio St.2d 81, 369 N.E.2d 1200. Moreover, mandamus is an extraordinary remedy which is to be exercised with great caution and granted only when the right is clear. Mandamus will not issue in doubtful cases. *State ex rel. Taylor v. Glasser* (1977), 50 Ohio St.2d 165, 364 N.E.2d 1; *State ex rel. Connoles v. Cleveland Bd. of Edn.* (1993), 87 Ohio App.3d 43, 621 N.E.2d 850.

{¶ 3} Although Gill possesses a clear legal right to pre-conviction jail-time credit in *State v. Gill*, supra. Sheriff Reid does not possess any legal duty to calculate pre-conviction jail-time credit or forward any calculation to the Ohio Bureau of Sentence Computation. R.C. 2949.08 and 2949.12; *State ex rel. Griffin v. McFaul*, Cuyahoga App. No. 84360, 2004-Ohio-3863. To the contrary, it is the trial court that possesses the clear legal duty to calculate the amount of pre-conviction jail-time credit and also possesses the

clear legal duty to specify in the record of conviction and sentence, the amount of pre-conviction jail-time credit vis-a-vis a properly executed journal entry. *State ex rel. Corder v. Wilson* (1991), 68 Ohio App.3d 567, 589 N.E.2d 113; *State ex rel. Summers v. Saffold*, Cuyahoga App. No. 82546, 2003-Ohio-3542; and *State ex rel. Montgomery v. Jones* (Nov. 25, 1998), Cuyahoga App. No. 75161. Thus, Gill has failed to state a claim upon which relief can be granted. *State ex rel. Peeples v. Anderson*, 73 Ohio St.3d 559, 1995-Ohio-335, 653 N.E.2d 371.

{¶ 4} Finally, we find that Gill’s request for a writ of mandamus is moot. Attached to Sheriff Reid’s motion for summary judgment is a copy of a journal entry, as journalized on March 22, 2010, which demonstrates that Gill has been granted pre-conviction jail-time credit in the amount of two hundred and ninety three (293) days and that a copy of the journal entry has been ordered sent to “the Warden.” The trial court has discharged its duty per R.C. 2949.08 and 2949.12 and Gill is not entitled to a writ mandamus vis-a-vis his request for the pre-conviction jail-time credit. *State ex rel. Grove v. Nadel*, 84 Ohio St.3d 252, 1998-Ohio-541, 703 N.E.2d 304; *State ex rel. Konoff v. Shafer*, 80 Ohio St.3d 294, 1997-Ohio-119, 685 N.E.2d 1248. It must also be noted that any error associated with the calculation of pre-conviction jail-time credit must be addressed through an appeal. *State*

ex rel. Britton v. Jones (March 5, 1998), Cuyahoga App. No. 73646; *State ex rel. Spates v. Corrigan* (April 17, 1997), Cuyahoga App. No. 71986.

{¶ 5} Accordingly, we grant Sheriff Reid's motion for summary judgment. Costs to Gill. 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).

Writ denied.

MARY J. BOYLE, JUDGE

KENNETH A. ROCCO, P.J., and
LARRY A. JONES, J., CONCUR