

[Cite as *State ex rel. DeAmiches v. Saffold*, 2010-Ohio-4140.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 95032

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

RELATOR

VS.

JUDGE SHIRLEY STRICKLAND SAFFOLD

RESPONDENT

**JUDGMENT:
COMPLAINT DISMISSED**

Writ of Mandamus

Order No. 436620

RELEASE DATE: August 27, 2010

FOR RELATOR

James DeAmiches, pro se
Inmate No.385-848
P.O. Box 57
Marion, Ohio 43301

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

CHRISTINE T. McMONAGLE, J.:

{¶ 1} On April 27, 2010, the relator, James DeAmiches, commenced this mandamus action against the respondent, Judge Shirley Strickland Saffold, to compel the judge to vacate previous sentencing entries in the underlying case, *State v. James DeAmiches*, Cuyahoga County Common Pleas Court Case No. CR-380999, and to impose a sentence consistent with this court's decision in *State v. James DeAmiches*, Cuyahoga (Mar. 1, 2001), App. No. 77609.¹ On May 26,

¹In the underlying case, DeAmiches pled guilty to multiple counts of rape, gross sexual imposition, and illegal use of a minor in nudity-oriented material. On January 19, 2000, the respondent judge sentenced DeAmiches to maximum, consecutive sentences on all offenses for a total of 46 to 54 years. Count 11 was for a pre-1996 charge for use

2010, this court issued an alternative writ of mandamus ordering the judge to vacate the order of March 8, 2005, reimposing the term of seven to 15 years for Count 11, and the February 25, 2008 order, imposing postrelease controls, to reinstate the sentence as imposed by this court and ordered by the respondent in the December 13, 2004 journal entry and to notify immediately the Department of Rehabilitation and Correction of the changes in the sentence or to show cause why she should not follow the orders of this court.

{¶ 2} On May 27, 2010, the trial court issued the following journal entry: “The court vacates the order of March 8, 2005 imposing the term of 7 to 15 years for count 11 and the February 25, 2008 order imposing PRC and reinstates the sentence as mandated by the court of appeals and previously journalized on 12/13/2004. Clerk ordered to send a copy of this order to: Ohio Department of Rehabilitation and Corrections.” On June 7, 2010, the respondent judge, through

of a minor in nudity-oriented material, and the judge sentenced him to a seven to 15 year term on that count. On appeal this court, pursuant to R.C. 2953.08(G), reduced the sentences, including the sentence on Count 11 to two to ten years. This court also ruled that “because the judge did not advise him of post-release controls as part of his sentence under R.C. 2967.28, such post-release controls are not part of his sentence.” (Slip op. Pg. 25.) This court then directed the respondent judge to vacate her prior sentencing order and issue a journal entry consistent with the opinion. The respondent judge did not do this until December 13, 2004, after a “Motion to comply with court of appeals journal entry and opinion” had been filed on November 16, 2004. Nevertheless, on March 8, 2005, the respondent judge without explanation issued a journal entry which stated, inter alia: “The sentence on count eleven (11) is to read ‘This count is a pre-senate bill two and defendant is sentenced to seven (7) to fifteen (15) years.’” Then on February 20, 2008, the respondent judge amended the sentencing entry to add postrelease control.

the Cuyahgoa County Prosecutor, filed a “Notice of compliance with court’s alternative writ of mandamus.” Since that time neither party has filed anything.

{¶ 3} The requisites for mandamus are well established: (1) the relator must have a clear legal right to the requested relief, (2) the respondent must have a clear legal duty to perform the requested relief and (3) there must be no adequate remedy at law. *State ex rel. Ney v. Niehaus* (1987), 33 Ohio St.3d 118, 515 N.E.2d 914. In the present case the May 27, 2010 journal entry fully provided the relator with all of his requested relief. Accordingly, this mandamus action is moot, and this court, sua sponte, dismisses this action. Respondent to pay cost. This court directs the clerk to serve upon the parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

CHRISTINE T. McMONAGLE, JUDGE

SEAN C. GALLAGHER, A.J., and
LARRY A. JONES, J., CONCUR