

[Cite as *State ex rel. Witherspoon v. Donnelly*, 2010-Ohio-5021.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
**No. 95524**

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**STATE OF OHIO, EX REL.  
RICHARD WITHERSPOON**

RELATOR

VS.

**MICHAEL DONNELLY, JUDGE**

RESPONDENT

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**JUDGMENT:  
WRIT DENIED**

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Writ of Mandamus  
Motion No. 437134  
Order No. 437974

**RELEASE DATE:** October 12, 2010

**FOR RELATOR**

Richard Witherspoon, pro se  
Inmate No. 534-607  
P.O. Box 540  
Belmont Correctional Institution  
St. Clairsville, Ohio 43950

**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} Richard Witherspoon, the relator, has filed a complaint for a writ of mandamus. Witherspoon seeks an order from this court, which requires Judge Michael P. Donnelly to calculate and issue a judgment that specifies the total number of days of jail-time credit that he is to receive in *State v. Witherspoon*, Cuyahoga County Court of Common Pleas Case No. CR-493020. Judge Donnelly has filed a motion for summary judgment.

{¶ 2} Attached to the motion for summary judgment is a journal entry, which demonstrates that Judge Donnelly has granted Witherspoon jail-time credit in the amount of sixty-five (65) days. Witherspoon's request for a writ of mandamus is moot. *State ex rel. Jerningham v. Cuyahoga Cty. Court of Common Pleas*, 74 Ohio St.3d 278, 1996-Ohio-117, 658 N.E.2d 723; *State ex rel. Gantt v. Coleman* (1983), 6 Ohio St.3d 5, 450 N.E.2d 1163. It must also be noted that any error associated with the calculation of jail-time credit must be addressed through an appeal. *State ex rel Britton v. Foley-Jones* (Mar. 5, 1998), Cuyahoga App. No. 73646; *State ex rel. Spates v. Sweeney* (Apr. 17, 1997), Cuyahoga App. No. 71986.

{¶ 3} Accordingly, we grant Judge Donnelly's motion for summary judgment. Costs to Judge Donnelly. 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.

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CHRISTINE T. MCMONAGLE, JUDGE

KENNETH A. ROCCO, P.J., and  
MELODY J. STEWART, J., CONCUR