

[Cite as *State ex rel. Williams v. McGinty*, 2010-Ohio-6202.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 95690

**STATE OF OHIO, EX REL.
LARRY WILLIAMS**

RELATOR

VS.

HONORABLE TIMOTHY J. MCGINTY, JUDGE

RESPONDENT

**JUDGMENT:
WRIT DENIED**

Writ of Procedendo
Motion No. 438143
Order No. 439822

RELEASE DATE: December 15, 2010

FOR RELATOR

Larry Williams, pro se
Inmate #561-540
Richland Correctional Inst.
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

MELODY J. STEWART, J.:

Larry Williams, the relator, has filed a complaint for a writ of procedendo. Williams seeks an order from this court, which requires Judge Timothy J. McGinty, the respondent, to re-enter a judgment entry of conviction and sentence in the underlying action of *State v. Williams*, Cuyahoga County Court of Common Pleas Case No. CR-489137. Judge

McGinty has filed a motion for summary judgment, which we grant for the following reasons.

Williams, through his complaint for a writ of procedendo, argues that Judge McGinty has failed to issue a sentencing journal entry that comports with the requirements of Crim.R. 32(C) and R.C. 2505.02. Contrary to Williams's argument, a sentencing journal entry, that fully complies with Crim.R. 32(C) and R.C. 2505.02, was issued by Judge McGinty on December 7, 2009.¹ The Supreme Court of Ohio, in *State v. Baker*, 119 Ohio St.3d 197, 2008-Ohio-3330, 893 N.E.2d 163, established that a sentencing journal entry is a final appealable order under R.C. 2505.02 and complies with Crim.R. 32(C) when it sets forth: (1) the guilty plea, the jury verdict, or the finding of the court upon which the conviction is based; (2) the sentence; (3) the signature of the judge; and (4) entry on the journal by the clerk of the court.

Herein, the sentencing journal entry of December 7, 2009, set forth: (1) the finding that Williams had violated community control sanctions resulting in the imposition of a sentence; (2) Williams entered a plea of guilty to the

¹The revised sentencing journal entry of December 7, 2009, was the result of an appeal that was filed by Williams. On December 2, 2009, this court sua sponte ordered Judge McGinty to issue a sentencing journal, in *State v. Williams*, Cuyahoga County Court of Common Pleas Case No. CR-489137, that fully complied with *State v. Baker*, supra. The revised sentencing journal entry was affirmed by this court on February 25, 2010. *State v. Williams*, Cuyahoga App. No. 92769, 2010-Ohio-659.

offenses of trafficking in drugs (R.C. 2925.03) and tampering with evidence (R.C. 2921.12); (3) the sentence with regard to the offenses of trafficking in drugs and tampering with evidence; (4) the signature of Judge McGinty; and (5) entry on the journal by the clerk of court. The sentencing journal entry fully complied with *Baker*.

In addition, Williams has failed to establish that *Baker* mandates that the trial court include in the sentencing journal entry, the total amount of jail-time credit. It must also be noted that sentencing errors, such as post-release control issues, are not jurisdictional and are not remediable by extraordinary writ. *State ex rel. Davis v. Cuyahoga Cty. Court of Common Pleas*, Slip Opinion No. 2010-Ohio-4728; *State ex rel. Pruitt v. Cuyahoga Cty. Court of Common Pleas*, 125 Ohio St.3d 402, 2010-Ohio-1808, 928 N.E.2d 722.

Thus, Judge McGinty possesses no duty to re-sentence Williams. *State ex rel. Barr v. Sutula*, 126 Ohio St.3d 193, 2010-Ohio-3213, 931 N.E.2d 1078; *State ex rel. Pruitt v. Cuyahoga Cty. Court of Common Pleas*, 125 Ohio St.3d 402, 2010-Ohio-1808, 928 N.E.2d 722.

Accordingly, we grant Judge McGinty's motion for summary judgment. Costs to Williams. 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.

MELODY J. STEWART, JUDGE

MARY EILEEN KILBANE, P.J., and
LARRY A. JONES, CONCUR