

[Cite as *State ex rel. Wooten v. Mason*, 2010-Ohio-684.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 94375

**STATE OF OHIO, EX REL.
BILLY WOOTEN**

RELATOR

vs.

LANCE T. MASON, JUDGE, ET AL.

RESPONDENTS

**JUDGMENT:
WRIT DENIED**

Writ of Mandamus
Motion No. 429627
Order No. 429459

RELEASE DATE: February 19, 2010

FOR RELATOR

Billy Wooten, pro se
Inmate No. 405-992
Marion Correctional Inst.
P.O. Box 57
Marion, Ohio 43301-0057

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 EILEEN KILBANE, J.:

{¶ 1} Relator, Billy Wooten, requests that this court compel respondents judge¹ and sheriff to grant him triple-count, jail-time credit under R.C. 2945.71(E) in *State v. Wooten*, Cuyahoga County Court of Common Pleas Case No. CR-396535. For the reasons stated below, we deny Wooten's request for relief in mandamus.

¹ Respondent, Judge Lance T. Mason, succeeded Judge Lillian Greene to whom Case No. CR-396535 had previously been assigned.

{¶ 2} Wooten avers that he has received 205 days jail-time credit. He asserts that he is entitled to three times that amount – 615 days – under R.C. 2945.71(E). He requests that this court compel either of the respondents “to calculate jail time credit pursuant to O.R.C. §2945.71(E) [and] [t]o deduct said jail time credit from [relator’s] prison sentence ***.” Complaint, Ad Damnum Clause.

{¶ 3} Respondents have filed a motion for summary judgment and Wooten has filed a brief in opposition to the motion. For the reasons stated below, we grant respondents’ motion for summary judgment.

{¶ 4} Initially, we note that respondent sheriff does not have a duty to determine the number of jail-time credit days. *State ex rel. Dunbar v. Saffold*, Cuyahoga App. No. 89260, 2007-Ohio-1143, at ¶7. Clearly, Wooten’s complaint in mandamus does not state a claim for relief against respondent sheriff.

{¶ 5} In *Freshour v. State* (1988), 39 Ohio St.3d 41, 528 N.E.2d 1259, the relator filed a motion in the underlying case and “stated that he received credit for the forty days on his prison sentence, but demanded credit for one hundred twenty days purportedly under R.C. 2945. 71(E).” *Id.* The court of appeals dismissed Freshour’s complaint in mandamus for failure to state a claim and the Supreme Court affirmed. “The court of common pleas * * *

had no duty to grant the relief [of ordering a number of days of jail-time credit which is three times the amount of actual days served]; the court of appeals had no duty to order it to do so; and the appellant had no clear legal right to the relief sought.” Id. at 42. In light of the holding in *Freshour*, we must conclude that Wooten’s complaint fails to state a claim against the court of common pleas.

{¶ 6} Additionally, attached to respondents’ motion for summary judgment is a copy of a journal entry signed by respondent judge and received for filing on December 22, 2009 granting Wooten 222 days jail-time credit. Respondent judge has, therefore, discharged his duty to specify the number of days jail-time credit. Wooten has or had an adequate remedy by way of appeal to challenge the number of days jail-time credit. See, e.g., *Leonard v. State*, Cuyahoga App. No. 93872, 2009-Ohio-5971, at ¶4-5. We agree with respondents that, to the extent that Wooten is requesting that the court of common pleas specify the number of days jail-time credit, his claim for relief in mandamus is moot.

{¶ 7} Accordingly, we grant respondents’ motion for summary judgment. 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).

Writ denied.

MARY EILEEN KILBANE, JUDGE

SEAN C. GALLAGHER, A.J., and
MELODY J. STEWART, J., CONCUR