

[Cite as *State ex rel. Walker v. Donnelly*, 2011-Ohio-1106.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
No. 96307

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**STATE OF OHIO EX REL.,  
ANTHONY WALKER**

RELATOR

vs.

**MICHAEL P. DONNELLY, JUDGE**

RESPONDENT

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**JUDGMENT:  
WRIT DENIED**

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Writ of Mandamus  
Motion No. 442043  
Order No. 442238

**RELEASE DATE:** March 4, 2011

## **FOR RELATOR**

Anthony Walker, Pro Se  
Inmate No. A 250-265  
Grafton Correctional Institution  
2500 South Avon-Belden Road  
Grafton, Ohio 44044

## **ATTORNEYS FOR RESPONDENT**

William D. Mason  
Cuyahoga County Prosecutor  
James E. Moss  
Assistant County Prosecutor  
8th Floor Justice Center  
1200 Ontario Street  
Cleveland, Ohio 44113

MARY EILEEN KILBANE, A.J.

{¶ 1} Anthony Walker has filed a complaint for a writ of mandamus. Walker seeks an order from this court that requires Judge Michael P. Donnelly to render a ruling with regard to a “motion for resentencing and the issuance of a revised judgment entry” in *State v. Walker*, Cuyahoga Cty. Court of Common Pleas Case No. CR-268354. Specifically, Walker argues that he possesses the right to a new sentencing hearing and a corrected sentencing journal entry, since the nunc pro tunc sentencing journal entry of May 26, 1998, failed to indicate the means of conviction as mandated by Crim.R. 32(C) and *State v. Baker*, 119 Ohio St.3d 197, 2008-Ohio-3330, 893 N.E.2d 163.

{¶ 2} Judge Donnelly has filed a motion for summary judgment with attachments, which we grant for the following reasons.

{¶ 3} The two journal entries attached to Judge Donnelly's motion for summary judgment demonstrate that a ruling has been rendered with regard to Walker's motion for resentencing and that a resentencing has occurred. The resentencing journal fully complies with Crim.R. 32(C) and *Baker*, since 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. Walker's request for a writ of mandamus is thus 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.

{¶ 4} It must also be noted Judge Donnelly possesses no legal duty to conduct a resentencing hearing, since a nunc pro tunc journal entry may be employed to correct a sentencing journal entry, that because of a simple oversight or omission, does not comply with Crim.R. 32(C) and *Baker*. *State ex rel. DeWine v. Burge*, Slip Opinion No. 2011-Ohio-235.

{¶ 5} Accordingly, we grant Judge Donnelly's motion for summary judgment. Costs to Walker. 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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MARY EILEEN KILBANE, ADMINISTRATIVE JUDGE

PATRICIA A. BLACKMON, J., AND  
COLLEEN CONWAY COONEY, J., CONCUR