

[Cite as *Eskridge v. Suster*, 2016-Ohio-3468.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 103846

BRIAN ESKRIDGE

RELATOR

vs.

JUDGE RONALD SUSTER

RESPONDENT

**JUDGMENT:
WRIT DENIED**

Writ of Mandamus
Motion No. 491781
Order No. 496517

RELEASE DATE: June 15, 2016

FOR RELATOR

Brian Eskridge, pro se
Inmate No. 011051
Cuyahoga County Jail
P.O. Box 5600
Cleveland, Ohio 44101

ATTORNEYS FOR RESPONDENT

Timothy J. McGinty
Cuyahoga County Prosecutor
By: James E. Moss
Assistant County Prosecutor
The Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

FRANK D. CELEBREZZE, JR., P.J.:

{¶1} Relator Brian Eskridge has filed a petition for writ of mandamus seeking to compel respondent Judge Ronald Suster to grant him additional jail- time credit in *State v. Eskridge*, Cuyahoga C.P. No. CR-14-591068-B. Respondent has filed a motion for summary judgment, which Eskridge has not opposed. Respondent's motion is granted and the petition for writ of mandamus is denied for the reasons that follow.

{¶2} On October 9, 2015, Eskridge filed a motion for jail-time credit in the trial court. On October 15, 2015, the trial court granted him 40 days of jail-time credit. He then filed this mandamus action seeking an order requiring respondent to grant him an additional seven and one-half months of jail-time credit. Subsequently, the trial court granted him additional jail-time credit.

{¶3} On December 9, 2015, the trial court issued an order granting Eskridge 88 days of jail-time credit. On February 4, 2016, the trial court granted him a total of 121 days of jail-time credit.

{¶4} Respondent has moved for summary judgment contending that the order granting Eskridge additional jail-time credit rendered the petition moot. *State ex rel. Fontanella v. Kantos*, 117 Ohio St.3d 514, 2008-Ohio-1431, 889 N.E.2d 220, ¶ 6. Alternatively, respondent has moved for summary judgment because an appeal would afford Eskridge with an adequate remedy at law to challenge the trial court's determination regarding the number of days of jail-time credit. *State ex rel. Menefee v.*

Burnside, 8th Dist. Cuyahoga No. 95747, 2010-Ohio-6034, ¶ 6 (mandamus does not lie where relator has or had an adequate remedy at law). Lastly, respondent contends that Eskridge's failure to comply with the requirements of R.C. 2969.25(A) and (C) warrants the dismissal of his petition. *State ex rel. Young v. Clipper*, 142 Ohio St.3d 318, 2015-Ohio-1351, 29 N.E.3d 977, ¶ 8-9 (the requirements of R.C. 2969.25 are mandatory and failure to comply with them requires dismissal).

{¶5} Eskridge has not disputed respondent's motion for summary judgment. Accordingly, respondent's motion for summary judgment is granted and the writ is denied. Costs to relator. Costs waived.

{¶6} The court directs the clerk of courts to serve all parties notice of this judgment and its date of entry upon the journal as required by Civ.R. 58(B).

{¶7} Writ denied.

FRANK D. CELEBREZZE, JR., PRESIDING JUDGE

EILEEN T. GALLAGHER, J., and
MELODY J. STEWART, J., CONCUR