

[Cite as *State ex rel. Robinson v. Saffold*, 2016-Ohio-5253.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
No. 104268

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STATE OF OHIO, EX REL.  
JODY E. ROBINSON

RELATOR

vs.

HONORABLE SAFFOLD, JUDGE

RESPONDENT

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**JUDGMENT:**  
**WRIT DENIED**

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Writ of Mandamus  
Motion No. 495272  
Order No. 497804

**RELEASE DATE:** August 3, 2016

**FOR RELATOR**

Jody E. Robinson, pro se  
Cuyahoga County Jail  
Inmate No. 0191006  
P.O. Box 5600  
Cleveland, Ohio 44113

**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

LARRY A. JONES, SR., A.J.:

{¶1} On March 22, 2016, the relator, Jody E. Robinson, commenced this mandamus action against the respondent, Judge Shirley Strickland Saffold, to compel the judge to “overturn” her denial of his motion to dismiss for unconstitutional preindictment delay, which he filed on February 12, 2016, in the underlying case, *State v. Robinson*, Cuyahoga C.P. No. CR-15-598539-A. On April 12, 2016, the respondent judge moved for summary judgment on the grounds of lack of duty. Attached to the dispositive motion was a copy of a file-stamped April 4, 2016 journal entry denying Robinson’s motion to dismiss. Robinson never filed a response to the judge’s dispositive motion. For the following reasons, this court grants the respondent’s summary judgment motion and denies the application for a writ of mandamus.

{¶2} The requisites for mandamus are well established: (1) the relator must have a clear legal right to the requested relief, (2) the respondent must have a clear legal duty to perform the requested relief, and (3) there must be no adequate remedy at law. Additionally, although mandamus may be used to compel a court to exercise judgment or to discharge a function, it may not control judicial discretion, even if that discretion is grossly abused. *State ex rel. Ney v. Niehaus*, 33 Ohio St.3d 118, 515 N.E.2d 914 (1987). Furthermore, mandamus is not a substitute for appeal. *State ex rel. Daggett v. Gessaman*, 34 Ohio St.2d 55, 295 N.E.2d 659 (1973); *State ex rel. Pressley v. Indus. Comm. of Ohio*, 11 Ohio St.2d 141, 228 N.E.2d 631 (1967), paragraph three of the

syllabus. Thus, mandamus does not lie to correct errors and procedural irregularities in the course of a case. *State ex rel. Jerningham v. Gaughan*, 8th Dist. Cuyahoga No. 67787, 1994 Ohio App. LEXIS 6227 (Sept. 26, 1994).

{¶3} The respondent judge fulfilled her duty by ruling on the motion to dismiss. Mandamus may not control the trial court's judicial authority on ruling on motions. If a motion to dismiss is denied, then appeal, if necessary or appropriate, is the proper remedy for review of the trial court's decision.

{¶4} Moreover, this matter is moot. A review of the docket in the underlying case reveals that subsequent to the judge's filing her summary judgment motion, a jury found Robinson not guilty on all counts.

{¶5} Accordingly, this court grants the judge's motion for summary judgment and denies the application for a writ of mandamus. Relator to pay costs. This 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).

{¶6} Writ denied.

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LARRY A. JONES, SR., ADMINISTRATIVE JUDGE

MELODY J. STEWART, J., and  
FRANK D. CELEBREZZE, JR., J., CONCUR