

**THE STATE EX REL. HUGHLEY, APPELLANT, v. MCMONAGLE,
JUDGE, APPELLEE.**

[Cite as *State ex rel. Hughley v. McMonagle*,
121 Ohio St.3d 536, 2009-Ohio-1703.]

*Mandamus to compel resentencing denied — Adequate remedy in the ordinary
course of law.*

(No. 2008-2262 — Submitted April 8, 2009 — Decided April 16, 2009.)

APPEAL from the Court of Appeals for Cuyahoga County,
No. 92071, 2008-Ohio-5882.

Per Curiam.

{¶ 1} We affirm the judgment of the court of appeals denying the petition of appellant, Kevin Hughley, for a writ of mandamus to compel appellee, Cuyahoga County Common Pleas Court Judge Timothy McMonagle, to resentence him in two criminal cases. Hughley “has or had adequate remedies in the ordinary course of law, e.g., appeal and postconviction relief, for review of any alleged sentencing error.” *State ex rel. Jaffal v. Calabrese*, 105 Ohio St.3d 440, 2005-Ohio-2591, 828 N.E.2d 107, ¶ 5. In fact, Hughley was ultimately successful in raising this claim in his direct appeal from these convictions. See *State v. Hughley*, Cuyahoga App. No. 90323, 2008-Ohio-6146, ¶ 37-41. Insofar as Hughley appears to claim that he is entitled to be released from prison, habeas corpus, instead of mandamus, is the appropriate action. *State ex rel. Gordon v. Murphy*, 112 Ohio St.3d 329, 2006-Ohio-6572, 859 N.E.2d 928, ¶ 5.

Judgment affirmed.

MOYER, C.J., and PFEIFER, LUNDBERG STRATTON, O’CONNOR,
O’DONNELL, LANZINGER, and CUPP, JJ., concur.

SUPREME COURT OF OHIO

Kevin Hughley, pro se.

William D. Mason, Cuyahoga County Prosecuting Attorney, and James E.
Moss, Assistant Prosecuting Attorney, for appellee.
