

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE EX REL. MARCUS MEADOWS	:	JUDGES: Hon. Julie A. Edwards, P.J. Hon. W. Scott Gwin, J. Hon. Patricia A. Delaney, J.
Relator	:	
-vs-	:	Case No. 2010-CA-00068
JUDGE V. LEE SINCLAIR, JR.	:	
Respondent	:	<u>OPINION</u>

CHARACTER OF PROCEEDING: Writ of Mandamus

JUDGMENT: Dismissed

DATE OF JUDGMENT ENTRY: August 2, 2010

APPEARANCES:

For: Relator For : Respondent

MARCUS MEADOWS, Pro Se
Inmate No. 531-630
Belmont Correctional Institution
Box 540
St. Clairsville, OH 43950

JOHN D. FERRERO (0018590)
BY: KATHLEEN O. TATARSKY (0017115)
Stark County Prosecutor's Office
110 Central Plaza S., 5th Fl.
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Gwin, P.J.

{¶1} Relator, Marcus Meadows, has filed a complaint requesting the issuance of a writ of mandamus compelling the trial court to rule on Relator's motion for jail time credit. Respondent has filed a Motion to Dismiss to which Relator has not filed a Reply.

{¶2} The sole allegation raised in the Complaint is whether Respondent should be ordered to rule on Relator's motion. On April 5, 2010, the trial court issued a ruling on Relator's motion and awarded Relator 68 days of jail time credit.

{¶3} To be entitled to the issuance of a writ of mandamus, the Relator must demonstrate: (1) a clear legal right to the relief prayed for; (2) a clear legal duty on the respondent's part to perform the act; and, (3) that there exists no plain and adequate remedy in the ordinary course of law. *State ex rel. Master v. Cleveland* (1996), 75 Ohio St.3d 23, 26-27, 661 N.E.2d 180; *State ex rel. Harris v. Rhodes* (1978), 5 Ohio St.2d 41, 324 N.E. 2d 641, citing *State ex rel. National City Bank v. Bd. of Education* (1977) 520 Ohio St. 2d 81, 369 N.E.2d 1200.

{¶4} The Supreme Court held in *Madsen*, "Mandamus will not issue to compel an act that has already been performed." *State ex rel. Scruggs v. Sadler*, 102 Ohio St.3d 160, 2004-Ohio-2054, 807 N.E.2d 357, ¶ 5. *State ex rel. Madsen v. Jones* (2005), 106 Ohio St. 3d 178, *179, 833 N.E. 2d 291, **292.

{¶5} Because the relief sought has already been rendered by the trial court, Relator has no clear right to the relief prayed for, and the Respondent has no clear legal duty to perform an act which it has already performed. *State ex rel. Lewis v. Boggins*, 2007 WL 4395630 (Ohio App. 5 Dist.). Therefore, we find the petition for writ of

mandamus must be denied. For this reason, Respondent's Motion to Dismiss is granted.

{¶6} MOTION TO DISMISS GRANTED.

{¶7} COMPLAINT DISMISSED.

{¶8} WRIT DENIED.

{¶9} COSTS TO RELATOR.

{¶10} IT IS SO ORDERED.

By Gwin, J.,

Edwards, P.J.,

Delaney, J., concur

HON. W. SCOTT GWIN

HON. JULIE A. EDWARDS

HON. PATRICIA A. DELANEY

