

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

STATE OF OHIO IN THE RELATION :
OF DONALD SULLIVAN,

Relator, : No. 112284

v. :

CUYAHOGA COUNTY COURT OF :
COMMON PLEAS, :

Respondent. :

JOURNAL ENTRY AND OPINION

JUDGMENT: WRIT DENIED

DATED: January 27, 2023

Writs of Procedendo
Motion No. 561159
Order No. 561410

Appearances:

Donald Sullivan, *pro se*.

Michael C. O'Malley, Cuyahoga County Prosecuting
Attorney, and James E. Moss, Assistant Prosecuting
Attorney, *for respondent*.

MICHELLE J. SHEEHAN, J.:

{¶ 1} Donald Sullivan, the relator, has filed a complaint for a writ of
procedendo. Sullivan seeks an order from this court that compels the Cuyahoga

County Court of Common Pleas, the respondent, to grant jail-time credit in *State v. Sullivan*, Cuyahoga C.P. Nos. CR-19-636338-A (original indictment dismissed) and CR-19-639981-A (reindictment). The Cuyahoga County Court of Common Pleas has filed a motion for summary judgment. Because the trial court has issued an order granting the requested jail-time credit, the respondent's motion for summary judgment is granted.

{¶ 2} Attached to the motion for summary judgment is a copy of a judgment entry, journalized January 11, 2023, that demonstrates Sullivan has been granted jail-time credit in the amount of 100 days in CR-19-636338-A and 430 days in CR-19-639981-A, for a total of 530 days of jail-time credit. Relief is unwarranted because the request for a writ of procedendo is moot. Procedendo will not compel the performance of a duty that has already been performed. *State ex rel. Ames v. Pokorny*, 164 Ohio St.3d 538, 2021-Ohio-2070, 173 N.E.3d 1208; *Thompson v. Donnelly*, 155 Ohio St.3d 184, 2018-Ohio-4073, 119 N.E.3d 1292; *State ex rel. S.Y.C. v. Floyd*, 8th Dist. Cuyahoga No. 109602, 2020-Ohio-5189.

{¶ 3} In addition, this court will not issue an extraordinary writ in order to correct any error associated with the calculation of jail-time credit. Any error associated with the calculation of jail-time credit must be addressed through a direct appeal. *State ex rel. Brookins v. Court of Common Pleas Cuyahoga Cty.*, 8th Dist. Cuyahoga No. 76135, 1999 Ohio App. LEXIS 2170 (May 13, 1999); *State ex rel. Britton v. Judge Foley-Jones*, 8th Dist. Cuyahoga No. 73646, 1998 Ohio App. LEXIS

856 (Mar. 5, 1998); *State ex rel. Spates v. Judge Sweeney*, 8th Dist. Cuyahoga No. 71986,1997 Ohio App. LEXIS 1516 (Apr. 17, 1997).

{¶ 4} Accordingly, we grant the Cuyahoga County Court of Common Pleas' motion for summary judgment. Costs waived. The court directs the clerk of courts to serve all parties with notice of this judgment and the date of entry upon the journal as required by Civ.R. 58(B).

{¶ 5} Writ denied.

MICHELLE J. SHEEHAN, JUDGE

EILEEN A. GALLAGHER, P.J., and
SEAN C. GALLAGHER, J., CONCUR