

IN THE SUPREME COURT OF OHIO

State ex rel.
John J. Rinaldi,

Case No. 2011-08888

Relator

vs.

Judge V. Lee Sinclair
Stark County Court
of Common Pleas,

Respondent.

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SUPREME COURT OF OHIO

RELATOR'S MEMORANDUM
IN OPPOSITION TO THE
RESPONDENT'S MOTION
TO DISMISS ORIGINAL
ACTION IN MANDAMUS

Pro se Relator John J. Rinaldi brings opposition of the Respondent's motion to dismiss the writ of mandamus. Whereas for, the Respondent circumvents the scope of the action of the mandamus complaint against the county court judge. The mandamus is to order the judge to refile the judgment of the criminal conviction entry case no. 2007-CR-0845, under the law of the Ohio Supreme Court decision made in State vs. Gover, 71 Ohio St.3d 577, 580-581, so that a notice of appeal may be timely filed. The case has nothing to do with filing a delayed appeal in the court of appeals. Res judicata does not apply because a delayed appeal is not applicable in the circumstances of the case when the criminal trial court judgment anew would facilitate a timely appeal.

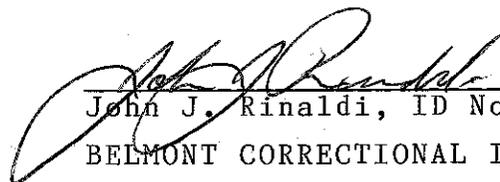
The Respondent had wholly lost its concept of the cause to merely deviate the aspect of the reason for the mandamus. In which Relator had clearly stated a claim in the original complaint for mandamus by the Gover case itself setting forth the cause of action and claim for relief, which is not an ambiguous statement of mere allegations as the Respondent falsely states

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This Court must not consider Respondent's contentions that the mandamus is aimed at the reason to provide a delayed appeal in the appellate court just because Relator had previously attempted to file a delayed appeal does not render the mandamus order to the common pleas court as res judicata. Besides not appealing the ruling of the appellate court or seek a reconsideration would have been frivolous anyways. No constitutional grounds could be raised in the Ohio Supreme Court's discretionary review, and a reconsideration does not bring the proper requirement to consider the mandate under Appellate Rule 26(A).

Wherefore, the Respondent is entirely incorrect to dismiss the mandamus on grounds that the Respondent erroneously presents by omission of the Gover facts and aspect. Because Relator is not seeking a delayed appeal in the trial court, but is trying to pursue relief from the criminal judgment thereof. That's the difference.

Respectfully submitted by,


John J. Rinaldi, ID No. 532-682
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Service of copy has been sent to the Stark County Prosecutor on June 1, 2011.