

ORIGINAL

IN THE SUPREME COURT OF OHIO
COLUMBUS, OHIO

LUCAS WILLIAMS,)	Case No. 13-11920
)	
)	
Relator,)	
-vs-)	
)	
)	
JUDGE ALFRED MACKEY,)	
)	
)	
Respondent.)	

RESPONDENT'S MOTION TO DISMISS PETITION
FOR WRIT OF MANDAMUS PURSUANT TO CIV.R. 12(B)(6)

NICHOLAS A. IAROCCHI (0042729)
ASHTABULA COUNTY PROSECUTOR

SHELLEY M. PRATT (0069721)
ASSISTANT PROSECUTOR
(COUNSEL OF RECORD)

Ashtabula County Prosecutor's Office
25 W. Jefferson Street
Jefferson, Ohio 44047-1092
(440) 576-3662 Fax (440) 576-3692

COUNSEL FOR RESPONDENT

Lucas Williams, #471-172
North Central Correctional Institution
P.O. Box 1812
Marion, Ohio 43302-1812

RELATOR, *PRO SE*

FILED
DEC 19 2013
CLERK OF COURT
SUPREME COURT OF OHIO

RECEIVED
DEC 19 2013
CLERK OF COURT
SUPREME COURT OF OHIO

MEMORANDUM

Now comes Respondent, by and through counsel, Shelley M. Pratt, Assistant Prosecutor to Nicholas A. Iarocci, the duly qualified, appointed and acting Prosecuting Attorney for Ashtabula County, Ohio, and hereby respectfully requests this Honorable Court to dismiss the instant Petition for Writ of Mandamus pursuant to Civ.R. 12(B)(6). As grounds for this request, the State of Ohio submits that the petition fails to state a claim upon which relief can be granted and that relator has an adequate remedy at law available.

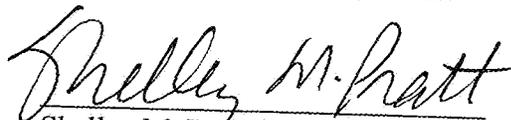
“To obtain a writ of mandamus, the relator must show that he has a clear legal right to the relief requested, the respondent has a clear legal duty to grant it, and no adequate remedy at law exists to vindicate the claimed right.” *State ex rel. Hattie v. Goldhardt*, 69 Ohio St.3d 123, 125, 630 N.E.2d 696, 698 (1994). The instant petition fails to state a viable claim for a writ of mandamus, in that relator does not demonstrate any legal right to jail time credit. Additionally, relator currently has a motion for jail time credit pending before the trial court, thus, an adequate remedy at law exists. Accordingly, dismissal is warranted under Civ.R. 12(B)(6).

CONCLUSION

For the foregoing reasons, and pursuant to Civ.R. 12(B)(6), the State of Ohio respectfully requests this Honorable Court to dismiss the above-captioned matter.

Respectfully submitted,

NICHOLAS A. IAROCCHI (0042729)
PROSECUTING ATTORNEY

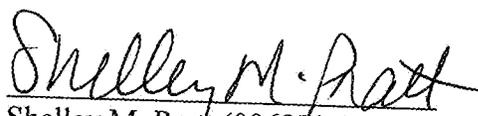


Shelley M. Pratt (0069721)
Assistant Prosecutor
Ashtabula County Prosecutor's Office
25 West Jefferson Street
Jefferson, Ohio 44047
(440) 576-3662 Fax (440) 576-3692

COUNSEL FOR RESPONDENT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing Motion to Dismiss Petition for Writ of Mandamus Pursuant to Civ.R. 12(B)(6) has been served via ordinary U.S. Mail, postage prepaid, this 12th day of December, 2013, upon Lucas Williams, #471-172, North Central Correctional Institution, P.O. Box 1812, Marion, Ohio 43302-1812.



Shelley M. Pratt (0069721)
Assistant Prosecutor