

[Cite as *State ex rel. Violet v. Belmont Cty. Court of Common Pleas*, 2003-Ohio-4610.]

STATE OF OHIO, BELMONT COUNTY
IN THE COURT OF APPEALS
SEVENTH DISTRICT

STATE OF OHIO, ex rel.)	CASE NO. 03 BE 46
RAYMOND S. VIOLET)	
)	
PETITIONER)	
)	
VS.)	OPINION AND
)	JOURNAL ENTRY
BELMONT COUNTY COURT)	
OF COMMON PLEAS)	
)	
RESPONDENT)	

CHARACTER OF PROCEEDINGS: Petition for Writ of Mandamus
Case No. 00 CR 170

JUDGMENT: Petition Dismissed

APPEARANCES:

For Petitioner:	Mr. Raymond S. Violet, Pro se Noble Correctional Institution 15708 St. Rte. 78 West Caldwell, Ohio 43724
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For Respondent:	Atty. Frank Pierce Prosecuting Attorney Atty. Thomas M. Ryncarz Assistant Prosecuting Attorney 147-A West Main Street St. Clairsville, Ohio 43950
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JUDGES:

Hon. Gene Donofrio
Hon. Joseph J. Vukovich
Hon. Cheryl L. Waite

Dated: August 28, 2003

PER CURIAM.

{¶1} Petition for writ of mandamus was filed pro-se by Petitioner on July 31, 2003, seeking an order to compel Respondent to rule on a “Motion to Vacate and Set Aside Costs, Fines and/or Restitution in a Felony, O.R.C. 2929.18(E),” which Petitioner had filed in Respondent Court on March 27, 2003.

{¶2} In order to grant the writ of mandamus it must be demonstrated that the Petitioner has a clear legal right to the relief prayed for, that the Respondent is under a clear duty to perform the requested act and that there exists no other adequate remedy in the ordinary course of law. *State ex rel. Karmasu v. Tate* (1992), 83 Ohio App.3d 199. An adequate remedy of law exists by way of a direct appeal from a judgment on the motion. On August 5, 2003, the Respondent filed a judgment entry, in the underlying criminal matter, overruling the Petitioner's motion to vacate. A writ of Mandamus will not issue to compel an act already performed. *State ex rel. Eads v. Callahan* (1998), 82 Ohio St.3d 405.

{¶3} As the Respondent has granted the relief requested in this mandamus petition, it is hereby dismissed as moot.

{¶4} Costs of this action taxed against Petitioner.

{¶5} Final order. Clerk to serve notice on the parties pursuant to the civil rules.

Donofrio, J., concurs.

Vukovich, J., concurs.

Waite, P.J., concurs.