

[Cite as *State ex rel. Studgions v. Saffold*, 2012-Ohio-1380.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 97751

**STATE OF OHIO, EX REL.,
JAMIL STUDGIONS**

RELATOR

vs.

**JUDGE SHIRLEY S. STRICKLAND SAFFOLD,
ET. AL.**

RESPONDENTS

**JUDGMENT:
WRIT DENIED**

Writ of Mandamus
Motion Nos. 451612 and 451974
Order No. 453400

RELEASE DATE: March 27, 2012

FOR RELATOR

Jamil Studgions, pro se
Inmate No. 573-653
Mansfield Correctional Institution
P. O. Box 788
Mansfield, OH 44901

ATTORNEYS FOR RESPONDENTS

FOR JUDGE SHIRLEY STRICKLAND SAFFOLD, ET AL.,

William D. Mason
Cuyahoga County Prosecutor

By: James E. Moss
Assistant County Prosecutor
Justice Center, 9th Floor
1200 Ontario Street
Cleveland, Ohio 44113

FOR WARDEN TERRY TIBBALS

Mike DeWine
Ohio Attorney General

By: Caitlyn Nestleroth
Assistant Attorney General
Crim. Justice Sect., Corr. Unit
150 East Gay Street, 16th Floor
Columbus, OH 43215

EILEEN A. GALLAGHER, J.:

{¶1} Jamil Studgions has filed a complaint for a writ of mandamus. Studgions seeks an order from this court, which requires Judge Shirley Strickland Saffold to conduct a re-sentencing hearing in *State v. Studgions*, Cuyahoga Cty. C.P. No. CR-523188, based upon the appellate decision as rendered by this court in *State v. Studgions*, 8th Dist. No. 94153, 2010-Ohio-5480. In *Studgions*, this court held that his convictions for the offenses of felonious assault and kidnapping were allied offenses of similar import, which required merger upon re-sentencing. In addition, Studgions seeks an order from this court, that requires the Warden of the Mansfield Correctional Institution, Terry Tibbals, to convey him to the Cuyahoga Cty. Court of Common Pleas for re-sentencing. Studgions request for mandamus, however is moot.¹

{¶2} Attached to Judge Saffold's "notice of judicial action," as filed on March 13, 2012, is a copy of a journal entry that demonstrates Studgions has been

¹Judge Saffold has filed a motion for summary judgment, while Warden Tibbals has filed a motion to dismiss the complaint for a writ of mandamus. Pursuant to Civ.R. 12(B)(6), Warden Tibbal's motion to dismiss, as filed on February 3, 2012, is converted into a Civ.R. 56(C) motion for summary judgment. *State ex rel. Boggs v. Springfield Local School Dist. Bd. of Edn.*, 72 Ohio St.3d 94, 647 N.E.2d 788 (1995); *State ex rel. Baran v. Fuerst*, 55 Ohio St.3d 94, 563 N.E.2d 713 (1990).

re-sentenced with regard to the issue of allied offenses. Thus, Studgions' request for mandamus is moot. *State ex rel. Jerningham v. Cuyahoga Cty. Court of Common Pleas*, 74 Ohio St.3d 278, 1996-Ohio-117, 658 N.E.2d 723; *State ex rel. Gantt v. Coleman* (1983), 6 Ohio St.3d 5, 450 N.E.2d 1163. In addition, Studgions possesses an adequate remedy at law through a direct appeal of the judgment of re-sentencing, which prevents this court from issuing a writ of mandamus. *State ex rel. Toma v. Corrigan*, 92 Ohio St.3d 589, 2001-Ohio-1289, 752 N.E.2d 281; *Brooks v. Gaul*, 89 Ohio St.3d 202, 729 N.E.2d 752 (2000); *Fraiberg v. Cuyahoga Cty Court of Common Pleas, Domestic Relations Div.*, 76 Ohio St.3d 374, 667 N.E.2d 1189 (1996).

{¶3} Accordingly, we grant the motions for summary judgment as filed by Judge Saffold and Warden Tibbals. Costs to Judge Saffold. It is further ordered that the Clerk of the Eighth District Court of Appeals serve notice of this judgment upon all parties as required by Civ.R. 58(B).

Writ denied.

EILEEN A. GALLAGHER, JUDGE

PATRICIA A. BLACKMON, A.J., and
MARY J. BOYLE, J.