

COURT OF APPEALS  
RICHLAND COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

STATE OF OHIO EX REL GARY D. WALKER	:	JUDGES:
	:	Julie A. Edwards, P.J.
	:	W. Scott Gwin, J.
	:	Sheila G. Farmer, J.
Relator	:	
	:	Case No. 10CA85
-vs-	:	
	:	
	:	
JUDGE JAMES DEWEESE	:	<u>OPINION</u>
	:	
Respondent	:	

CHARACTER OF PROCEEDING: Writ of Mandamus Complaint

JUDGMENT: Dismissed

DATE OF JUDGMENT ENTRY: November 15, 2010

APPEARANCES:

For Relator For Respondent

GARY D. WALKER  
1001 Olivesburg Road  
Mansfield, Ohio 44901

KIRSTEN PSCHOLKA-GARTNER  
Assistant Richland County Prosecutor  
38 South Park, Second Floor  
Mansfield, Ohio 44902

*Edwards, P.J.*

{¶1} Relator, Gary D. Walker, has filed a Complaint for Writ of Mandamus requesting this Court issue a writ of mandamus compelling Respondent, Judge James Deweese, to issue an amended sentencing entry which addressed all forty-five counts against Relator. The trial court's initial sentencing entry did not address the odd numbered counts of the indictment because they were determined to be allied offenses with the even numbered offenses. The instant complaint was filed on July 2, 2010. The trial court issued an amended sentencing entry addressing all forty-five counts on September 7, 2010.

{¶2} Respondent has filed a Motion to Dismiss suggesting the complaint should be dismissed as moot because the trial court has now ruled on the motion.

{¶3} The Supreme Court has held, "Neither procedendo nor mandamus will compel the performance of a duty that has already been performed. *State ex rel. Grove v. Nadel* (1998), 84 Ohio St.3d 252, 253, 703 N.E.2d 304, 305." *State ex rel. Kreps v. Christiansen* (2000), 88 Ohio St.3d 313, 318, 725 N.E.2d 663, 668.

{¶4} Because the requested relief has already been obtained, we find the complaint for writ of mandamus is moot and grant the motion to dismiss.

{¶5} MOTION TO DISMISS GRANTED.

{¶6} COSTS WAIVED.

By: Edwards, P.J.

Gwin, J. and

Farmer, J. concur

s/Julie A. Edwards

s/W. Scott Gwin

s/Sheila G. Farmer

JUDGES

JAE/as1029

IN THE COURT OF APPEALS FOR RICHLAND COUNTY, OHIO  
FIFTH APPELLATE DISTRICT

STATE OF OHIO EX REL GARY D. WALKER	:	
	:	
	:	
Relator	:	
	:	
	:	
-vs-	:	JUDGMENT ENTRY
	:	
JUDGE JAMES DEWEESE	:	
	:	
	:	
Respondent	:	CASE NO. 10CA85

For the reasons stated in our accompanying Memorandum-Opinion on file, the complaint is dismissed. Costs waived.

s/Julie A. Edwards

s/W. Scott Gwin

s/Sheila G. Farmer

JUDGES