

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE ex rel. DALON ANTHONY THOMAS,	:	JUDGES:
	:	Hon. W. Scott Gwin, P.J.
Relator,	:	Hon. Craig R. Baldwin, J.
	:	Hon. Earle E. Wise, J.
-vs-	:	
	:	
JUDGE CHRYSSA N. HARTNETT of the	:	Case No. 2019CA00091
STARK COUNTY COURT OF COMMON	:	
PLEAS,	:	
	:	
Repondent.	:	<u>OPINION</u>

CHARACTER OF PROCEEDING: Writ of Mandamus

JUDGMENT: Dismissed

DATE OF JUDGMENT: September 30, 2019

APPEARANCES:

For Relator

DALON A. THOMAS, Pro Se
#A324-811
London Correctional Institution

P.O. Box 69
London, Ohio 43130

For Respondent

JOHN D. FERRERO
Stark County Prosecuting Attorney

By: RONALD MARK CALDWELL
Assistant Prosecuting Attorney
110 Central Plaza South, Suite 510
Canton, Ohio 44702-1413

Baldwin, J.

{¶1} On June 25, 2019, Dalon Thomas filed a petition for writ of mandamus to compel Judge Chryssa Hartnett to rule on his pending motion to withdraw guilty plea. This Court is permitted to consider facts outside the record to show that a case is moot. *Miner v. Witt*, 82 Ohio St. 237, 239, 92 N.E. 21 (1910). Here, Judge Hartnett issued a Judgment Entry on July 11, 2019 denying Mr. Thomas's Motion to Vacate Convictions and Withdraw Plea.

{¶2} The issuance of the Judgment Entry rendered Mr. Thomas's writ of mandamus moot. See *State ex rel. Eubank v. McDonald*, 135 Ohio St.3d 186, 2013-Ohio-72, 985 N.E.2d 463, ¶1 ("Mandamus will not lie to compel an act that has already been performed.") See also *State ex rel. Scruggs v. Sadler*, 102 Ohio St.3d 160, 2004-Ohio-2054, 807 N.E.2d 357, ¶5; *State ex rel. Richard v. Wells*, 64 Ohio St.3d 76, 77, 591 N.E.2d 1240 (1992). Therefore, because Mr. Thomas's writ of mandamus is moot it is dismissed.

{¶3} The clerk of courts is hereby directed to serve upon all parties not in default notice of this judgment and its date of entry upon the journal. See Civ.R. 58(B).

By: Baldwin, J.

Gwin, P.J. and

Wise, Earle, J. concur.