

[Cite as *State ex rel. McDuffie v. Strickland-Saffold*, 2019-Ohio-1128.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
No. 108092

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STATE OF OHIO, EX REL.  
MAURICE McDUFFIE

RELATOR

vs.

JUDGE SHIRLEY STRICKLAND-SAFFOLD

RESPONDENT

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**JUDGMENT:**  
WRIT DENIED

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Writ of Procedendo  
Motion No. 525169  
Order No. 525943

**RELEASE DATE:** March 22, 2019

## **FOR RELATOR**

Maurice McDuffie, pro se  
Inmate No. A650882  
Lake Erie Correctional Institution  
P.O. Box 8000  
501 Thompson Road  
Conneaut, Ohio 44030

## **ATTORNEYS FOR RESPONDENT**

Michael C. O'Malley  
Cuyahoga County Prosecutor  
By: James E. Moss  
Assistant County Prosecutor  
The Justice Center  
1200 Ontario Street  
Cleveland, Ohio 44113

FRANK D. CELEBREZZE, JR., J.:

{¶1} Relator, Maurice McDuffie, seeks a writ of procedendo compelling respondent, Judge Shirley Strickland Saffold, to rule on a motion to credit community service toward court costs. Respondent filed a motion for summary judgment, contending that a ruling on the motion had been entered and the action was, therefore, moot. We grant respondent's motion for summary judgment and find that the action is moot.

### **I. Facts and Procedural History**

{¶2} Relator was tried and convicted of felonious assault in an underlying criminal case before respondent in 2013. On September 17, 2018, relator filed a motion to credit prison community work service towards court costs and fines. The state filed a response, but a ruling on the motion was not forthcoming.

{¶3} On January 10, 2019, relator filed the instant complaint for a writ of procedendo. Respondent filed a motion for summary judgment asserting that a journal entry granting relator's motion was entered on January 22, 2019, which was attached. Respondent argued that the action was moot as a result. Relator failed to timely respond to the motion for summary judgment.

## II. Law and Analysis

{¶4} The extraordinary writ of procedendo is available when a court has refused to or unnecessarily delayed in rendering judgment. *State ex rel. Sherrills v. Cuyahoga Cty. Court of Common Pleas*, 72 Ohio St.3d 461, 462, 650 N.E.2d 899 (1995). “A writ of procedendo will not issue unless the relator establishes a clear legal right to that relief and that there is no adequate remedy at law.” *Id.*, citing *State ex rel. Brown v. Shoemaker*, 38 Ohio St.3d 344, 345, 528 N.E.2d 188 (1988). In order to accomplish this, relator must demonstrate that respondent has a clear legal duty that remains unfulfilled, to which relator has a clear legal right, and there is no other adequate remedy at law. *State ex rel. Doe v. Gallia Cty. Common Pleas Court*, 153 Ohio St.3d 623, 2018-Ohio-2168, 109 N.E.3d 1222, ¶ 16, quoting *State ex rel. Ward v. Reed*, 141 Ohio St.3d 50, 2014-Ohio-4512, 21 N.E.3d 303, ¶ 9. Further, the writ of procedendo cannot be used to control judicial discretion. *Sherrills* at 462, quoting *State ex rel. Hansen v. Reed*, 63 Ohio St.3d 597, 600, 589 N.E.2d 1324 (1992), quoting *State ex rel. Davey v. Owen*, 133 Ohio St. 96, 106, 12 N.E.2d 144 (1937).

{¶5} Once a ruling is made on the filing that is the subject of a writ of procedendo, the action becomes moot. *State ex rel. Bortoli v. Dinkelacker*, 105 Ohio St.3d 133, 2005-Ohio-779, 823 N.E.2d 448, ¶ 3 (“A writ of procedendo will not issue to compel the performance of a duty

that has already been performed.”); *State ex rel. Pettway v. Cuyahoga Cty. Court of Common Pleas*, 8th Dist. Cuyahoga No. 98699, 2012-Ohio-5423.

{¶6} Here, respondent has provided a certified copy of a journal entry granting relator’s motion that is the subject of this action. Therefore, the action is moot. Respondent’s motion for summary judgment is granted. Relator’s request for a writ of procedendo is denied as moot.

Costs assessed against respondent; costs waived. The clerk is directed to serve upon the parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

{¶7} Writ denied.

FRANK D. CELEBREZZE, JR., JUDGE

SEAN C. GALLAGHER, P.J., and  
PATRICIA ANN BLACKMON, J., CONCUR