

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

STATE OF OHIO,	:	
	:	
Respondent,	:	
	:	No. 108256
v.	:	
	:	
RAYNARD MCDONALL,	:	
	:	
Relator.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: WRIT DENIED

DATED: August 21, 2019

Writ of Procedendo
Motion No. 527814
Order No. 530653

Appearances:

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and James E. Moss, Assistant Prosecuting Attorney, *for respondent*.

Raynard McDonall, *pro se*.

MARY EILEEN KILBANE, A.J.:

{¶ 1} On March 1, 2019, the relator, Raynard McDonall, commenced this procedendo action to compel the respondent trial judge to issue findings of fact and conclusions of law for a postconviction relief petition, which McDonall filed in the

underlying case, *State v. McDonall*, Cuyahoga C.P. No. CR-16-606531-A.¹ On April 24, 2019, the respondent, through the Cuyahoga County Prosecutor, moved for summary judgment on the grounds of mootness and pleading deficiencies. McDonall never filed a response. For the following reasons, this court grants the respondent's motion for summary judgment and denies the application for a writ of procedendo.

{¶ 2} On May 21, 2018, McDonall filed a petition to vacate or set aside judgment of conviction and an application for DNA testing, as well as motions for appointment of counsel and for expert assistance. A review of the docket shows that on July 5, 2018, the respondent judge denied all four of McDonall's motions. However, the judge did not issue findings of fact and conclusions of law. Thus, McDonall commenced this procedendo action. Attached to the judge's dispositive motion is a certified copy of a signed April 24, 2019 journal entry that is the findings of fact and conclusions of law for McDonall's postconviction relief petition. This establishes that the respondent judge has proceeded to judgment and fully resolved the postconviction relief petition. This matter is moot.

{¶ 3} Relator also did not comply with R.C. 2969.25(C), which requires that an inmate file a certified statement from his prison cashier setting forth the balance in his private account for each of the preceding six months. This also is sufficient

¹ In the underlying case, a jury found McDonall guilty of rape and kidnapping, based primarily on DNA evidence. In an April 20, 2017 journal entry the trial court sentenced him to ten years on each count to be served consecutively.

reason to deny the writ, deny indigency status, and assess costs against the relator. *State ex rel. Pamer v. Collier*, 108 Ohio St.3d 492, 2006-Ohio-1507, 844 N.E.2d 842; *State ex rel. Hunter v. Cuyahoga Cty. Court of Common Pleas*, 88 Ohio St.3d 176, 2000-Ohio-285, 724 N.E.2d 420; and *Hazel v. Knab*, 130 Ohio St.3d 22, 2011-Ohio-4608, 955 N.E.2d 378 — the defect may not be cured by subsequent filings.

{¶ 4} Accordingly, this court grants the respondent's motion for summary judgment and denies the application for a writ of procedendo. Relator to pay costs. This court directs the clerk of courts to serve all parties notice of this judgment and its date of entry upon the journal as required by Civ.R. 58(B).

{¶ 5} Writ denied.

MARY EILEEN KILBANE, ADMINISTRATIVE JUDGE

ANITA LASTER MAYS, J., and
KATHLEEN ANN KEOUGH, J., CONCUR