

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

STATE EX REL., MICHELLE
KRONENBERG,

:

Relator,

:

No. 109773

v.

:

JUDGE WANDA C. JONES,

:

Respondent.

:

JOURNAL ENTRY AND OPINION

JUDGMENT: WRIT DENIED

DATED: August 11, 2020

Writ of Procedendo
Motion No. 539922
Order No. 540336

Appearances:

Michelle Kronenberg, *pro se*.

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

LARRY A. JONES, SR., J.:

{¶ 1} Relator, Michelle Kronenberg, applies to this court for a writ of procedendo to order respondent, Judge Wanda C. Jones, to rule on a “motion to vacate judgment and conviction” in criminal case Cuyahoga C.P. No. CR-17-614825.

Respondent has ruled on the motion, rendering the instant action moot. As such, respondent's motion for summary judgment is granted, and the request for a writ is denied.

I. Procedural and Factual History

{¶ 2} In the underlying case, relator filed a motion seeking to vacate her convictions on November 12, 2019. According to the complaint, the state filed a brief in opposition on November 22, 2019. No ruling on the motion was forthcoming. So, on June 16, 2020, relator filed the instant action seeking to compel respondent to rule on the motion.

{¶ 3} On July 13, 2020, respondent filed a motion for summary judgment. She asserted that a ruling on the underlying motion was journalized on July 8, 2020. A certified copy of the journal entry was attached to her motion. She argued that as a result, the instant action is moot. Relator did not timely oppose the motion for summary judgment.

II. Law and Analysis

{¶ 4} “A writ of procedendo is appropriate when a court has either refused to render a judgment or has unnecessarily delayed proceeding to judgment.” *State ex rel. Sherrills v. Common Pleas*, 72 Ohio St.3d 461, 462, 650 N.E.2d 899 (1995), citing *State ex rel. Doe v. Tracy*, 51 Ohio App.3d 198, 200, 555 N.E.2d 674 (12th Dist. 1988). To be entitled to writs of procedendo, relators must show that they possess a clear legal right to require the court to proceed, that the court has a clear legal duty to proceed, and that they possess no other adequate remedy in the

ordinary course of law. *State ex rel. Culgan v. Collier*, 135 Ohio St.3d 436, 2013-Ohio-1762, 988 N.E.2d 564, ¶ 7. However, procedendo may not compel a court to perform a duty that it has already performed. *Martin v. Judges of the Lucas Cty. Court of Common Pleas*, 50 Ohio St.3d 71, 72, 552 N.E.2d 906 (1990), citing *State ex rel. Breaux v. Court of Common Pleas*, 50 Ohio St.2d 164, 363 N.E.2d 743 (1977). Nor can procedendo be used to control judicial discretion. *State ex rel. Williams v. Croce*, 153 Ohio St.3d 348, 2018-Ohio-2703, 106 N.E.3d 55, ¶ 6, citing *State ex rel. Davey v. Owen*, 133 Ohio St. 96, 106, 12 N.E.2d 144 (1937). Once a ruling has been issued on the subject motion, an action for writ of procedendo is rendered moot. *Id.* at ¶ 7.

{¶ 5} Respondent has ruled on the motion that is the subject of this action. As a result, relator has obtained all the relief to which she is entitled. Therefore, the action is moot.

{¶ 6} Respondent's motion for summary judgment is granted. Costs to 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.

LARRY A. JONES, SR., JUDGE

EILEEN T. GALLAGHER, A.J., and
FRANK D. CELEBREZZE, JR., J., CONCUR