

THE STATE EX REL. EADS, APPELLANT, v. CALLAHAN, JUDGE, APPELLEE.

[Cite as *State ex rel. Eads v. Callahan*, 1998-Ohio-514.]

Mandamus to compel common pleas court judge to issue findings of fact and conclusions of law on relator's petition for postconviction relief—Writ denied when act already performed.

(No. 98-227—Submitted May 26, 1998—Decided July 29, 1998.)

APPEAL from the Court of Appeals for Cuyahoga County, No. 73265.

{¶ 1} In October 1997, appellant, Daniel T. Eads, filed a complaint for a writ of mandamus in the Court of Appeals for Cuyahoga County to compel appellee, Cuyahoga County Court of Common Pleas Judge Kenneth R. Callahan, to issue findings of fact and conclusions of law on Eads's petition for postconviction relief. Eads did not file an accompanying affidavit specifying the details of his mandamus claim, as required by Loc.App.R. 8(B)(1). Judge Callahan subsequently issued findings of fact and conclusions of law denying Eads's petition for postconviction relief.

{¶ 2} The court of appeals granted Judge Callahan's motion for summary judgment and denied the writ. The court of appeals held that the mandamus action was moot and that Eads did not comply with Loc.App.R. 8(B)(1).

{¶ 3} This cause is now before this court upon an appeal as of right.

Daniel T. Eads, pro se.

Stephanie Tubbs Jones, Cuyahoga County Prosecuting Attorney, and Daniel M. Margolis, Assistant Prosecuting Attorney, for appellee.

SUPREME COURT OF OHIO

Per Curiam.

{¶ 4} We affirm the judgment of the court of appeals for the reasons stated in its opinion. A writ of mandamus will not issue to compel an act already performed. *State ex rel. Jerningham v. Cuyahoga Cty. Court of Common Pleas* (1996), 74 Ohio St.3d 278, 279, 658 N.E.2d 723, 724.

Judgment affirmed.

MOYER, C.J., DOUGLAS, RESNICK, F.E. SWEENEY, PFEIFER, COOK and LUNDBERG STRATTON, JJ., concur.
