

COURT OF APPEALS
STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

JAMES CHRISTOPHER ALLISON,
STATE OF OHIO EX REL

Relator

-vs-

JOHN G. HAAS, JUDGE,
COURT OF COMMON PLEAS

Respondent

JUDGES:

Hon. William B. Hoffman, P.J.

Hon. John W. Wise, J.

Hon. Julie A. Edwards, J.

Case No. 2012CA00086

O P I N I O N

CHARACTER OF PROCEEDING:

Writ of Mandamus

JUDGMENT:

Dismissed

DATE OF JUDGMENT ENTRY:

September 24, 2012

APPEARANCES:

For Relator

For Respondent

JAMES CHRISTOPHER ALLISON
#A471-762
Marion Correctional Institution
P.O. Box 57
Marion, Ohio 43301

JOHN D. FERRERO
Stark County Prosecuting Attorney

KATHLEEN O. TATARSKY
Assistant Prosecuting Attorney
Appellate Section
Stark County Prosecutor's Office
110 Central Plaza South
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Canton, Ohio 44702

Hoffman, P.J.

{¶1} Relator, James Allison, has filed a Complaint for writ of mandamus requesting this Court issue a writ requiring Respondent to waive the fine and court costs imposed in Relator's underlying criminal case. Respondent has filed a motion to dismiss on the basis the Complaint has become moot.

{¶2} Subsequent to the filing of the instant of Complaint, the trial court issued an order waiving Relator's fine and court costs.

{¶3} The Supreme Court has held, "Neither procedendo nor mandamus will compel the performance of a duty that has already been performed. *State ex rel. Grove v. Nadel* (1998), 84 Ohio St.3d 252, 253, 703 N.E.2d 304, 305." *State ex rel. Kreps v. Christiansen* (2000), 88 Ohio St.3d 313, 318, 725 N.E.2d 663, 668.

{¶4} Because the requested relief has already been obtained, we find the complaint for writ of mandamus is moot and grant the motion to dismiss.

By: Hoffman, P.J.

Wise, J. and

Edwards, J. concur

s/ William B. Hoffman
HON. WILLIAM B. HOFFMAN

s/ John W. Wise
HON. JOHN W. WISE

s/ Julie A. Edwards
HON. JULIE A. EDWARDS

s/ Julie A. Edwards
HON. JULIE A. EDWARDS