

IN THE COURT OF APPEALS FOR STARK COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO, EX REL.
REGINALD GIBSON

Relator

-VS-

HONORABLE TARYN HEATH
STARK COUNTY COURT OF
COMMON PLEAS

Respondent

NUNC PRO TUNC

JUDGMENT ENTRY

CASE NO. 2015CA00084

The Opinion previously issued in this case contained a clerical error on the cover page and judgment entry. The respondent's name was incorrectly spelled.

Hon. Sheila G. Farmer

Hon. W. Scott Gwin

Hon. Patricia A. Delaney

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JUDGES:

Hon. Sheila G. Farmer, P.J.

Hon. W. Scott Gwin, J.

Hon. Patricia A. Delaney, J.

CASE NO. 2015CA000084

OPINION

NUNC PRO TUNC

CHARACTER OF PROCEEDING:

Writ of Mandamus

JUDGMENT:

Dismissed

DATE OF JUDGMENT:

April 5, 2016

APPEARANCES:

For Relator

For Respondent

REGINALD GIBSON, Pro Se
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Stark County Prosecuting Attorney
By: RENEE M. WATSON
Assistant Prosecuting Attorney
110 Central Plaza South, Suite 510
Canton, OH 44702-1413

Farmer, P.J.

{¶1} Relator, Reginald Gibson, has filed a Petition for Writ of Mandamus against Respondent, Judge Taryn Heath of the Stark County Court of Common Pleas. Relator seeks an order requiring Respondent to issue findings of fact and conclusions of law in support of the trial court's denial of Relator's motion for post-conviction relief. Respondent has filed a motion to dismiss arguing Respondent has already issued the findings of fact and conclusions of law. Further, Respondent argues Relator has or had an adequate remedy at law by way of appeal.

{¶2} For a writ of mandamus to issue, the relator must have a clear legal right to the relief prayed for, the respondent must be under a clear legal duty to perform the requested act, and relator must have no plain and adequate remedy in the ordinary course of law. *State, ex rel. Berger, v. McMonagle* (1983), 6 Ohio St.3d 28, 6 OBR 50, 451 N.E.2d 225.

{¶3} However, the Supreme Court has held mandamus will not issue where the requested relief has been obtained, "Neither procedendo nor mandamus will compel the performance of a duty that has already been performed." *State ex rel. Kreps v. Christiansen* (2000), 88 Ohio St.3d 313, 318, 725 N.E.2d 663, 668.

{¶4} If the entry [denying a motion for post-conviction relief] of the trial court sufficiently apprises the petitioner of the reasons for the judgment and permits meaningful appellate review, a writ of mandamus will not be issued to compel findings of fact and conclusions of law. *State ex rel. Carrion v. Harris* (1988), 40 Ohio St.3d 19, 19–20, 530 N.E.2d 1330, 1330–1331.

{¶5} Respondent issued a ruling on the motion for post-conviction relief on May 23, 2014. The entry contained sufficient findings of fact and conclusions of law to apprise Relator of the reasons for denial of the motion.

{¶6} Because Respondent ruled on the motion in question with sufficient findings of fact and conclusions of law, we find Relator has failed to demonstrate his entitlement to the writ as Respondent has fulfilled her legal duty. For this reason, the motion to dismiss is granted, and the instant petition is dismissed.

By Farmer, P.J.

Gwin, J. and

Delaney, J. concur.

SGF/as 210