

[Cite as *Bluford v. Gallagher*, 2003-Ohio-4199.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

No. 82896

ROLAND BLUFORD	:	
	:	JOURNAL ENTRY
Relator	:	AND
	:	OPINION
vs.	:	
	:	
JUDGE EILEEN A. GALLAGHER	:	
	:	
Respondent	:	
	:	
	:	
DATE OF JOURNALIZATION	:	AUGUST 4, 2003
	:	
CHARACTER OF PROCEEDINGS	:	WRIT OF MANDAMUS
	:	Motion No. 349752
	:	Lower Court No. 360788
	:	Common Pleas Court
	:	
JUDGMENT	:	APPLICATION DENIED.

APPEARANCES:

For Relator:	ROLAND BLUFORD, PRO SE
	INMATE NO. 359-667
	P.O. Box 788
	1150 North Main Street
	Mansfield, Oh 44901-0788
For Respondent:	WILLIAM D. MASON
	Cuyahoga County Prosecutor
	By: KRISTEN LUSNIA
	Assistant County Prosecutor
	Justice Center - 9 <sup>th</sup> Floor
	1200 Ontario Street
	Cleveland, Ohio 44113

ANNE L, . KILBANE, J.:

{¶1} Through this mandamus action, Roland Bluford seeks to compel Judge Eileen Gallagher to rule on his “Motion to correct/modify journal entry filed October 7, 2002 pursuant to Criminal Rule 36 and Civil Rule 60(B)(5)” filed in his underlying case, *State of Ohio v. Roland Bluford*.<sup>1</sup> The judge responded by moving for summary judgment on the grounds of mootness and attached a copy of the signed, file-stamped June 10, 2003 entry, denying Bluford’s motion. This mandamus action is moot. The ruling on the motion has fulfilled the judge’s duty and granted Bluford all the relief he could obtain through mandamus. The Writ may be used to compel a judge to exercise judgment or to discharge a function, it may not control judicial discretion, even if that discretion is grossly abused.<sup>2</sup> Here the judge has exercised her discretion by denying Bluford’s motion. If he believes the ruling is incorrect, he has or had a remedy by means of appeal.<sup>3</sup>

{¶2} Accordingly, the court denies the writ. Costs assessed against Bluford. 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).

ANNE L. KILBANE

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<sup>1</sup> Cuyahoga County Common Pleas Court Case No. CR. 360788.

<sup>2</sup> *State ex rel. Ney v. Niehaus* (1987), 33 Ohio St.3d 118, 515 N.E.2d 914.

<sup>3</sup> *State ex rel. Corder v. Wilson* (1991), 68 Ohio App.3d 567, 589 N.E.2d 113.

JUDGE

PATRICIA A. BLACKMON, P.J., CONCURS

DIANE KARPINSKI, J., CONCURS