

[Cite as *State ex rel. Hackett v. Russo*, 2007-Ohio-2235.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
**No. 89385**

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**S/O EX REL., ANDREW HACKETT**

RELATOR

VS.

**JUDGE NANCY MARGARET RUSSO**

RESPONDENT

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**JUDGMENT:**  
**WRIT DENIED**

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Writ of Mandamus  
Motion No. 394207  
Motion No. 396221

**BEFORE:** Rocco, J., Calabrese, P.J., and Kilbane, J.

**RELEASE DATE:** May 4, 2007

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**ATTORNEY FOR RELATOR**

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**ATTORNEY FOR RESPONDENT**

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By: Diane Smilanick  
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KENNETH A. ROCCO, J.:

{¶ 1} Relator, Andrew Hackett, is the defendant in *State v. Hackett*, Cuyahoga County Court of Common Pleas Case No. CR-410750, and remains incarcerated. Respondent judge of the court of common pleas is assigned to Case No. CR-410750.

{¶ 2} Hackett appealed his conviction and sentence and this court reversed in part and remanded the case for resentencing. *State v. Hackett*, Cuyahoga App. No. 83810, 2004-Ohio-5386. The journal entry and opinion in Case No. 83810 was journalized on October 18, 2004.

{¶ 3} Hackett requests that this court issue a writ of mandamus compelling respondent judge to issue an order requiring that Hackett be returned to Cuyahoga

County for resentencing. Respondent has, however, filed a motion for summary judgment attached to which is a copy of a journal entry received for filing on February 27, 2007 in Case No. CR-410750 in which respondent ordered Hackett returned to Cuyahoga County Jail for resentencing. As a consequence, this action is moot.

{¶ 4} Accordingly, respondent's motion for summary judgment is granted. Respondent to pay costs. 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).

*Writ denied.*

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KENNETH A. ROCCO, J.

ANTHONY O. CALABRESE, JR., J. and  
MARY EILEEN KILBANE, J. CONCUR