

[Cite as *State ex rel. Melton v. Callahan*, 2008-Ohio-587.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 90862

**STATE OF OHIO, EX REL.,
ROBERT MELTON**

RELATOR

VS.

JUDGE KENNETH CALLAHAN

RESPONDENT

**JUDGMENT:
WRIT DENIED**

WRIT OF PROCEDENDO
MOTION NO. 405435
ORDER NO. 405709

RELEASE DATE: February 13, 2008

FOR RELATOR:

Robert Melton, pro se
1636 E. 85th Street
Cleveland, Ohio 44106

ATTORNEYS FOR RESPONDENT:

William D. Mason
Cuyahoga County Prosecutor
By: Jon W. Oebker
Assistant County Prosecutor
8th Floor Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

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KENNETH A. ROCCO, J.:

{¶ 1} On January 2, 2008, the relator, Robert Melton, commenced this procedendo action against the respondent, Judge Kenneth Callahan. In the underlying case, *State v. Melton*, Cuyahoga County Common Pleas Court Case No. CR-501053, the Grand Jury on October 1, 2007, indicted Melton on one count of possession of cocaine. Since then he has made various pro se motions, including a motion for a court order to preserve a sample portion of the alleged controlled substance for independent testing,¹ a motion for the transcript of the preliminary hearing, a motion to suppress evidence, a motion to disqualify counsel, and a motion for personal bond. Melton seeks to compel the judge to rule on all his motions at an oral hearing in his presence. Melton also complains that he was excluded from the preliminary hearing and several pre-trials.

{¶ 2} On January 28, 2008, the underlying case proceeded to trial. The docket contains the following entry dated January 31, 2008: “Defendant in court with public defender. Prosecuting attorney Jeffrey S. Schnatter present. Jury returns a verdict of not guilty of drug possession 2925.11 A as charged in the indictment. Defendant discharged in this case. Defendant ordered released.” Accordingly, this procedendo action is moot, and this court denies the application for an extraordinary writ. Costs assessed against relator. 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).

¹ The docket indicates that the respondent granted this motion on December 27,

KENNETH A. ROCCO, JUDGE

ANTHONY O. CALABRESE, JR., P.J., and
ANN DYKE, J., CONCUR