

[Cite as *State ex rel. Hughley v. McMonagle*, 2009-Ohio-2243.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 93119

**STATE OF OHIO, EX REL.,
KEVIN HUGHLEY**

RELATOR

VS.

C.C.C.P. JUDGE TIMOTHY MCMONAGLE

RESPONDENT

**JUDGMENT:
WRIT DENIED**

WRIT OF MANDAMUS
MOTION NO. 421495 and 421510
ORDER NO. 421709

RELEASE DATE: May 11, 2009

FOR RELATOR:

Kevin Hughley, pro se
Inmate No. 532-743
5900 B.I.S. Road
Lancaster, Ohio 43130

ATTORNEYS FOR RESPONDENT:

William D. Mason
Cuyahoga County Prosecutor

By: James Moss
Assistant County Prosecutor
8th Floor Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

JUDGE PATRICIA ANN BLACKMON:

{¶ 1} On April 8, 2009 relator Kevin Hughley commenced this mandamus action against respondent Judge Timothy McMonagle to compel him to journalize his discharge in the matter of *State v. Hughley*, Cuyahoga County Court of Common Pleas, Case No. CR-500474. Judge McMonagle, through the Cuyahoga County Prosecutor's Office, filed a motion for summary judgment on April 28, 2008. Hughley also filed a motion for summary judgement. For the following reason, we grant Judge McMonagle's motion for summary judgment and deny Hughley's motion for summary judgment.

{¶ 2} A review of the filings indicate that this court in *State v. Hughley*, Cuyahoga App. No. 90948, 2008-Ohio-5127 found that the trial court erred in denying Hughley’s motion to dismiss the indictment and remanded the case to discharge Hughley. Attached to the respondent’s motion for summary judgment is a copy of the order that orders Hughley discharged. Thus, Hughley’s request for a writ of mandamus is moot.¹

{¶ 3} Accordingly, we grant Judge McMonagle’s motion for summary judgment and deny Hughley’s motion for summary judgment. Costs to respondent. It is further ordered that the clerk shall serve upon all parties notice of this judgment and date of entry pursuant to Civ.R. 58(B).

Writ denied.

PATRICIA A. BLACKMON, JUDGE

SEAN C. GALLAGHER, P.J., and
MELODY J. STEWART, J., CONCUR

¹ *State ex rel. Gantt v. Coleman* (1983), 6 Ohio St.3d 5, 450 N.E.2d 1163; *State ex rel. Jerningham v. Cuyahoga County Court of Common Pleas*, 74 Ohio St.3d 278, 1996-Ohio-117, 658 N.E.2d 723.