

[Cite as *State ex rel. Berry v. Villanueva*, 2009-Ohio-3600.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 93272

**STATE OF OHIO, EX REL.,
CHRISTOPHER BERRY**

RELATOR

VS.

JUDGE JOSE A. VILLANUEVA

RESPONDENT

**JUDGMENT:
WRIT DENIED**

WRIT OF PROCEDENDO
MOTION NO. 423413
ORDER NO. 423524

RELEASE DATE: July 20, 2009

FOR RELATOR

Christopher Berry, pro se
Inmate No.494-051
Trumbull Correctional Inst
P.O. Box 901
Leavittsburg, Ohio 44430-0901

ATTORNEYS FOR RESPONDENT

William D. Mason
Cuyahoga County Prosecutor

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

KENNETH A. ROCCO, P.J.:

{¶ 1} Christopher Berry has filed a complaint for a writ of procedendo, through which he seeks an order which requires Judge Jose A. Villanueva to issue findings of fact and conclusions of law with regard to petitions for postconviction relief that were filed in the underlying case of *State v. Berry*, Cuyahoga County Court of Common Pleas Case No. CR-466432. Judge Villanueva has filed a motion for summary judgment.

{¶ 2} Attached to Judge Villanueva's motion for summary judgment is a copy of the findings of fact and conclusions of law as issued in Cuyahoga County Court of Common Pleas Case No. CR-466432. Thus, Berry's complaint for a writ of procedendo is moot. *State ex rel. Snider v. Stapleton* (1992), 65 Ohio St.3d 40, 600

N.E.2d 240; *State ex rel. Richard v. Wells* (1992), 64 Ohio St.3d 76, 591 N.E.2d 1240.

{¶ 3} Accordingly, we grant Judges Villanueva's motion for summary judgment. Costs waived. It is further ordered that the Clerk of the Eighth District Court of Appeals, pursuant to Civ.R. 58(B), serve upon all parties notice of this judgment and date of entry.

Writ denied.

KENNETH A. ROCCO, PRESIDING JUDGE

MELODY J. STEWART, J., and
FRANK D. CELEBREZZE, JR., J., CONCUR