

[Cite as *State ex rel. Lisboa v. McCafferty*, 2009-Ohio-5243.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 93535

STATE OF OHIO, EX REL., JOSE LISBOA

RELATOR

vs.

BRIDGET M. MCCAFFERTY, JUDGE

RESPONDENT

JUDGMENT:
WRIT DENIED

WRIT OF PROCEDENDO
MOTION NO. 425485
ORDER NO. 426516

RELEASE DATE: September 28, 2009

FOR RELATOR

Jose Lisboa, pro se
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ATTORNEYS FOR RESPONDENT

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Cuyahoga County Prosecutor

By: James E. Moss
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the Justice Center, 9th Floor
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SEAN C. GALLAGHER, P.J.:

{¶ 1} On June 26, 2009, the relator, Jose Lisboa, commenced this procedendo action against the respondent, Judge Bridget McCafferty, to compel the judge to rule on his motion for return of property which he filed in the underlying case, *State v. Lisboa*, Cuyahoga County Common Pleas Court Case No. CR-451451 on May 28, 2008. On August 19, 2009, the respondent moved for summary judgment on the grounds of mootness. Attached to the dispositive motion was a copy of a certified journal entry, file-stamped August 14, 2009, in the underlying case, denying Lisboa's motion for return of property.¹ This journal

¹ The presence of a typographical error does not nullify the respondent's ruling. The August 14, 2009 order states that the motion for return of property was filed on

entry establishes that Lisboa has received his requested relief, a ruling on his motion, and that this procedendo action is moot. Lisboa never filed a timely response to the motion for summary judgment.

{¶ 2} Accordingly, the court grants the respondent's motion for summary judgment and denies the writ. Each side to bear its own costs. The clerk is

{¶ 3} directed to serve upon the parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

Writ denied.

SEAN C. GALLAGHER, PRESIDING JUDGE

MARY EILEEN KILBANE, J., and
JAMES J. SWEENEY, J., CONCUR

May 28, 2009. However, the docket shows that Lisboa's only motion for return of property was filed on May 28, 2008.