

[Cite as *State ex rel. Holliday v. Gallagher*, 2010-Ohio-1218.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 94582

**STATE OF OHIO, EX REL.
DEANGELO HOLLIDAY**

RELATOR

VS.

HONORABLE EILEEN T. GALLAGHER

RESPONDENT

**JUDGMENT:
WRIT DENIED**

Writ of Prohibition
Motion No. 430798
Order No. 431888

RELEASE DATE: March 19, 2010

ATTORNEY FOR RELATOR

Fred D. Middleton
815 Superior Avenue, East
Suite 1717
Cleveland, Ohio 44114

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

COLLEEN CONWAY COONEY, J.:

{¶ 1} On January 27, 2010, the relator, Deangelo Holliday, commenced this prohibition action against the respondent, Judge Eileen T. Gallagher, to prohibit her from proceeding in the underlying case, *State v. Holliday*, Cuyahoga County Common Pleas Court Case No. CR-527266. Holliday argues that the trial court lacks jurisdiction in the underlying case because he was younger than 18 years old at the time the alleged offenses occurred and there has been no bindover proceeding by the juvenile court. On February 3, 2010, the respondent, through the Cuyahoga County Prosecutor, moved for summary judgment on the grounds of mootness. Attached to the dispositive motion was a certified copy of

a February 2, 2010 journal entry in the underlying case that stated: “Plaintiff’s motion to transfer case to juvenile court is granted.” On February 10, 2010, this court directed the petitioner to file his response to the judge’s summary judgment motion within ten days because the matter appears to be moot. Holliday never filed a response.

{¶ 2} Accordingly, this court grants the judge’s motion for summary judgment and denies the application for a writ of prohibition because the matter is now moot; the case is no longer pending before the respondent, but before the juvenile court as Holliday desired. Each side to bear their own costs. The court directs the clerk to serve upon the parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

COLLEEN CONWAY COONEY, JUDGE

ANN DYKE, P.J., and
MARY J. BOYLE, J., CONCUR