

[Cite as *State ex rel. Holmes v. Russo*, 2011-Ohio-1105.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 96188

**STATE OF OHIO, EX REL.,
DESMOND HOLMES**

RELATOR

vs.

HON. JUDGE JOSEPH D. RUSSO

RESPONDENT

**JUDGMENT:
WRIT DENIED**

Writ of Mandamus
Motion No. 441862
Order No. 442411

RELEASE DATE: March 8, 2011

FOR RELATOR:

Desmond Holmes
Inmate No. 551-875
Lake Erie Correctional Institution
P.O. Box 8000
Conneaut, Ohio 44030

ATTORNEYS FOR RESPONDENT:

William D. Mason
Cuyahoga County Prosecutor
By: James E. Moss
Assistant County Prosecutor
8th Floor Justice Center
1200 Ontario Street
Cleveland, OH 44113

COLLEEN CONWAY COONEY, J.:

{¶ 1} On December 20, 2010, the relator, Desmond Holmes, commenced this mandamus action to compel the respondent judge to issue findings of fact and conclusions of law for a postconviction relief petition, which Holmes filed on March 23, 2009 in his underlying case, *State v. Holmes*, Cuyahoga County Common Pleas Court Case No. CR-502442. On February 11, 2011, the respondent moved for summary judgment on the grounds of mootness. Attached to the dispositive motion is a copy of the February 4, 2011 journal entry containing the

findings of fact and conclusions of law for the petition. Accordingly, this court grants the respondent's motion for summary judgment.

{¶ 2} The judge's findings of fact and conclusions of law deny the postconviction petition. Thus, the journal entry establishes that the judge has fulfilled his duty to issue the findings of fact and conclusions of law and that Holmes has received his requested relief.

{¶ 3} Accordingly, the motion for summary judgment is granted, and Holmes's application for a writ of mandamus is denied. Parties to bear their own costs. 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).

COLLEEN CONWAY COONEY, JUDGE

MARY J. BOYLE, P.J., and
LARRY A. JONES, J., CONCUR