

[Cite as *State ex rel. Pettway v. Cuyahoga Cty. Common Pleas Court*, 2011-Ohio-745.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 96228

**STATE OF OHIO, EX REL.
TIMOTHY PETTWAY**

RELATOR

vs.

**CUYAHOGA COUNTY COMMON
PLEAS COURT, ET AL.**

RESPONDENTS

**JUDGMENT:
WRIT DENIED**

Writ of Procedendo
Motion No. 441150
Order No. 441609

RELEASE DATE: February 14, 2011

FOR RELATOR

Timothy Pettway, pro se
Inmate # A550-655
1150 N. Main Street
Mansfield, Ohio 44901

ATTORNEYS FOR RESPONDENTS

William D. Mason
Cuyahoga County Prosecutor

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

KATHLEEN A. KEOUGH, J.:

{¶ 1} Timothy Pettway, the relator, has filed a complaint for a writ of procedendo.

Pettway seeks an order from this court, which requires Judge Deena R. Calabrese, the respondent, to render a ruling with regard to a “motion to vacate void sentence and order new sentencing hearing” as filed in *State v. Pettway*, Cuyahoga County Court of Common Pleas Case No. CR-498474.¹ Judge Calabrese has filed a motion for summary judgment, which we grant for the following reasons.

¹Pursuant to Civ.R. 25(D)(1), Judge Deena R. Calabrese is substituted for the judge that was originally assigned to the underlying case.

{¶ 2} Attached to Judge Calabrese's motion for summary judgment is a journal entry, that demonstrates a ruling has been rendered with regard to Pettway's motion to vacate void sentence and order a new sentencing hearing. The motion to vacate void sentence and order a new sentencing hearing was denied on January 18, 2011. Pettway's request for a writ of procedendo is moot. *State ex rel. Jerningham v. Cuyahoga Cty. Court of Common Pleas*, 74 Ohio St.3d 278, 1996-Ohio-117, 658 N.E.2d 723; *State ex rel. Gantt v. Coleman* (1983), 6 Ohio St.3d 5, 450 N.E.2d 1163. It must also be noted that Pettway possesses or possessed an adequate remedy at law vis-a-vis an appeal from the judgment that denied his motion to vacate void judgment and order a new sentencing hearing. *State ex rel. Hughley v. McMonagle*, 121 Ohio St.3d 536, 2009-Ohio-1703, 905 N.E.2d 1220.

{¶ 3} Accordingly, we grant Judge Calabrese's motion for summary judgment. Parties to share costs. It is further ordered that the Clerk of the Eighth District Court of Appeals serve notice of this judgment upon all parties as required by Civ.R. 58(B).

Writ denied.

KATHLEEN A. KEOUGH, JUDGE

SEAN C. GALLAGHER, P.J., and
FRANK D. CELEBREZZE, JR., J., CONCUR