

[Cite as *State ex rel. Nia v. Friedman*, 2013-Ohio-706.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 99244

**STATE OF OHIO EX REL.,
AKANBI NIA**

RELATOR

VS.

JUDGE STUART A. FRIEDMAN, ET AL.

RESPONDENTS

**JUDGMENT:
WRIT DENIED**

Writ of Mandamus
Motion Nos. 460882 and 461204
Order No. 461846

RELEASE DATE: February 22, 2013

FOR RELATOR

Akanbi Nia, Pro Se
Inmate No. 493-580
Mansfield Correctional Institution
P.O. Box 788
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Mansfield, OH 44901

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MELODY J. STEWART, A.J.:

{¶1} On December 3, 2012, the relator, Akanbi Nia, commenced this mandamus action against respondents, Judge Stuart Friedman and Warden Terry Tibbals, to compel them to remand Nia to the custody of the Cuyahoga County Sheriff. In the underlying case, *State v. Nia*, Cuyahoga C.P. No. CR-456529, in 2005, a jury convicted Nia of aggravated murder and attempted aggravated murder; the judge sentenced him to an aggregate term of 28 years to life. In *State v. Nia*, 8th Dist. No. 87335, 2007-Ohio-1283, this court affirmed the convictions, but vacated the sentences and remanded the case to the trial court for resentencing pursuant to *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470. However, Nia was never resentenced; thus, he seeks this mandamus to return to the Cuyahoga County Sheriff's Office for further proceedings.

{¶2} The respondents filed dispositive motions on the grounds of mootness. On December 11, 2012, the judge filed a motion for summary judgment, attached to which was a certified copy of a December 7, 2012 journal entry ordering Nia's return to the Cuyahoga County Jail for resentencing. On December 24, 2012, the warden filed a motion to dismiss, attached to which was a copy of December 19, 2012 journal entry sentencing Nia to an aggregate term of 28 years to life for the crimes of aggravated murder and attempted aggravated murder. Nia never filed a response. The attached journal entries establish that this matter is moot.

{¶3} Accordingly, the court grants the respondents' dispositive motions and denies the application for a writ of mandamus. Costs assessed against the respondents; costs waived. This court directs the clerk of court to serve all parties notice of this judgment and its date of entry upon the journal as required by Civ.R. 58(B).

MELODY J. STEWART, ADMINISTRATIVE JUDGE

LARRY A. JONES, SR., J., and
KENNETH A. ROCCO, J., CONCUR