

[Cite as *State ex rel. Lenard v. Russo*, 2013-Ohio-829.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 99229

STATE OF OHIO EX REL., RICHARD LENARD

RELATOR

vs.

JUDGE JOHN J. RUSSO, ET AL.

RESPONDENTS

**JUDGMENT:
WRIT DENIED**

Writ of Procedendo
Motion No. 461110
Order No. 462403

RELEASED DATE: March 6, 2013

FOR RELATOR

Richard Lenard, Pro Se
Inmate No. 570-627
Noble Correctional Institution
15708 McConnellsville Road
Caldwell, Ohio 43724

ATTORNEYS FOR RESPONDENTS

Timothy J. McGinty
Cuyahoga County Prosecutor

By: James E. Moss
Assistant County Prosecutor
9th Floor Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

PATRICIA ANN BLACKMON, P.J.:

{¶1} Richard Lenard, the relator, has filed a complaint for a writ of procedendo. Lenard seeks an order from this court, which requires Judge John J. Russo and Judge Nancy Fuerst, the respondents, to render rulings with regard to a “motion for return and inspection of property,” and a “motion to vacate and/or correct multiple void sentences” as filed in *State v. Lenard*, Cuyahoga C.P. No. CR-463837. For the following reason, we decline to issue a writ of procedendo.

{¶2} Lenard’s motion for return and inspection of property was filed, in CR-463837, on November 29, 2005, prior to his plea of guilty entered on December 7, 2005, to one count of receiving stolen property, two counts of tampering with records, one count of telecommunications fraud, one count of forgery, two counts of theft, and one count of grand theft motor vehicle. On March 16, 2006, Lenard was sentenced. Because Lenard’s motion for return and inspection of property was filed and pending before his plea of guilty, the motion is “deemed to be denied” upon sentencing. *State ex rel. The V Cos. v. Marshall*, 81 Ohio St.3d 467, 1998-Ohio-329, 692 N.E.2d 198; *Jones v. Sutula*, 8th Dist. No. 91296, 2008-Ohio-2777.

{¶3} In addition, Lenard’s request for a ruling, with regard to his pending motion to vacate and/or correct multiple void sentences, is moot. Attached to the respondents’ motion for summary judgment is a copy of a judgment entry, as journalized on December 14, 2012, which demonstrates that a ruling has been rendered with regard to the pending motion to vacate. Thus, the respondents have already performed their duty and once again procedendo shall not issue on behalf of Lenard. *State ex rel. Fontanella v. Kontos*,

117 Ohio St.3d 514, 2008-Ohio-1431, 885 N.E.2d 220; *State ex rel. Howard v. Doneghy*, 102 Ohio St.3d 355, 2004-Ohio-3207, 810 N.E.2d 958, ¶ 6, quoting *State ex rel., Kreps v. Christiansen*, 88 Ohio St.3d 313, 318, 725 N.E.2d 663 (2000).

{¶4} Accordingly, we grant the respondents' motion for summary judgment. Lenard to pay costs. The court directs the clerk of courts to serve all parties with notice of this judgment and its date of entry upon the journal as required by Civ.R. 58(B).

{¶5} Writ denied.

PATRICIA ANN BLACKMON, PRESIDING JUDGE

MARY BOYLE, J., and
KATHLEEN ANN KEOUGH, J., CONCUR