

[Cite as *State ex rel. Smith v. Calabrese*, 2014-Ohio-2069.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 101189

STATE OF OHIO, EX REL.
RICHARD SMITH

RELATOR

vs.

CUYAHOGA COUNTY COMMON PLEAS
JUDGE DEENA R. CALABRESE

RESPONDENT

JUDGMENT:
WRIT DENIED

Writ of Mandamus
Motion No. 474270
Order No. 474517

RELEASE DATE: May 9, 2014

FOR RELATOR

Richard Smith, pro se
#550-616, Grafton Correctional Institution
2500 South Avon-Belden Road
Grafton, Ohio 44044

ATTORNEYS FOR RESPONDENT

Timothy J. McGinty
Cuyahoga County Prosecutor

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

EILEEN T. GALLAGHER, J.:

{¶1} Richard Smith has filed a complaint for a writ of mandamus. Smith seeks an order from this court that requires Judge Deena Calabrese to render a ruling with regard to a “motion to correct illegal sentence” filed in *State v. Smith*, Cuyahoga C.P. No. CR-05-469680-A. For the following reasons, we decline to issue a writ of mandamus on behalf of Smith.

{¶2} Smith’s request for a writ of mandamus is moot. Attached to Judge Calabrese’s motion for summary judgment is a copy of a journal entry, journalized on April 8, 2014, which demonstrates that a ruling has been rendered with regard to the “motion to correct illegal sentence.” Thus, Smith is not entitled to a writ of mandamus. *State ex rel. Jerningham v. Cuyahoga Cty. Court of Common Pleas*, 74 Ohio St.3d 278, 658 N.E.2d 723 (1996); *State ex rel. Gantt v. Coleman*, 6 Ohio St.3d 5, 450 N.E.2d 1163 (1983).

{¶3} Accordingly, we grant Judge Calabrese’s motion for summary judgment. Costs to Judge Calabrese. Costs waived. The court directs the clerk of court to serve all parties with notice of this judgment and its date of entry upon the journal as required by Civ.R. 58(B).

{¶4} Writ denied.

EILEEN T. GALLAGHER, JUDGE

MARY J. BOYLE, A.J., and

PATRICIA ANN BLACKMON, J., CONCUR

#101189 - *State Ex. Rel., Richard Smith v. Cuyahoga County Common Pleas Judge Deena R. Calabrese*