

[Cite as *State ex rel. West v. McDonnell*, 2014-Ohio-3731.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 101458

STATE OF OHIO, EX REL.
TODD WEST

RELATOR

VS.

HONORABLE NANCY MCDONNELL

RESPONDENT

JUDGMENT:
WRIT DENIED

Writ of Mandamus
Motion No. 477006
Order No. 477722

RELEASE DATE: August 27, 2014

FOR RELATOR

Todd West, pro se
Inmate #A604-897
Richland Correctional Institution
P.O. Box 8107
Mansfield, Ohio 44901

ATTORNEYS FOR RESPONDENT

Timothy J. McGinty
Cuyahoga County Prosecutor

BY: James E. Moss
Assistant Prosecuting Attorney
The Justice Center, 9th Floor
1200 Ontario Street
Cleveland, Ohio 44113

EILEEN T. GALLAGHER, J.:

{¶1} On May 29, 2014, the relator, Todd West, commenced this mandamus action against the respondent, Judge Nancy McDonnell, to compel the judge to resentence him in the underlying case, *State v. West*, Cuyahoga C.P. No. CR-11-548609-A, as mandated by this court in *State v. West*, 8th Dist. Cuyahoga Nos. 97398 and 97899, 2012-Ohio-6138, which ruled that West's convictions for cultivating/manufacturing marijuana and drug trafficking were allied offenses. West had been convicted of both, and the trial judge had initially sentenced him to consecutive sentences for those offenses.

On July 23, 2014, the respondent judge moved for summary judgment on the grounds of mootness. Attached to her dispositive motion was a certified copy of a July 8, 2014 journal entry scheduling the resentencing for July 24, 2014. A review of the underlying case's docket shows that the trial court resentedenced West and merged the two counts, with the state electing to sentence on the drug trafficking count. West never opposed the judge's motion for summary judgment. This action is moot. West has received his requested relief, a resentencing pursuant to this court's judgment, and the trial court has fulfilled its duty to resentence.

{¶2} Accordingly, this court grants the respondent's motion for summary judgment and denies the application for a writ of mandamus. Respondent to pay costs; costs waived. This court directs the clerk of courts to serve all parties notice of this judgment and its date of entry upon the journal as required by Civ.R. 58(B).

{¶3} Writ denied.

EILEEN T. GALLAGHER, JUDGE

FRANK D. CELEBREZZE, JR., P.J., and
KENNETH A. ROCCO, J., CONCUR