

[Cite as *State ex rel. Cotton v. Russo*, 2014-Ohio-4482.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
No. 101744

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**STATE EX REL., MILTON COTTON**

RELATOR

vs.

**JUDGE JOHN J. RUSSO**

RESPONDENT

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**JUDGMENT:**  
**WRIT DENIED**

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Writ of Mandamus  
Order No. 478797  
Motion No. 477820

**RELEASE DATE:** October 3, 2014

**FOR RELATOR**

Milton Cotton  
A234-317  
Grafton Correctional Institution  
2500 South Avon-Belden Road  
Grafton, OH 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, OH 44113

TIM McCORMACK, J.:

{¶1} Milton Cotton, relator, has petitioned this court to issue a writ of mandamus to compel the trial court to rule on his motions to correct void sentence filed on April 17, 2014, and May 12, 2014, in *State v. Cotton*, Cuyahoga C.P. No. CR-92-281730. Respondent has filed a motion for summary judgment that Cotton has not opposed. For the reasons that follow, we grant respondent's motion for summary judgment and deny relator's complaint because it is moot.

{¶2} Respondent's motion for summary judgment attached a copy of the trial court's entry that was journalized on August 21, 2014, which demonstrates that a ruling has been rendered with regard to relator's motions. "[R]elief is unwarranted because mandamus and procedendo will not compel the performance of a duty that has already been performed." *State ex rel. Hopson v. Cuyahoga Cty. Court of Common Pleas*, 135 Ohio St.3d 456, 2013-Ohio-1911, 989 N.E.2d 49, ¶ 4.

{¶3} Accordingly, we grant respondent's motion for summary judgment and deny relator's complaint for writ of mandamus. Costs are assessed against relator but are waived. 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).

{¶4} Writ denied.

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TIM McCORMACK, JUDGE

KATHLEEN ANN KEOUGH, P.J., and  
MELODY J. STEWART, J., CONCUR