

[Cite as *State ex rel. Wells v. Corrigan*, 2014-Ohio-4941.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 101754

STATE OF OHIO EX REL.
ERIC WELLS

RELATOR

vs.

HONORABLE BRIAN J. CORRIGAN

RESPONDENT

JUDGMENT:
WRIT DENIED

Writ of Mandamus/Procedendo
Motion No. 478541
Order No. 479588

RELEASE DATE: November 5, 2014

FOR RELATOR

Eric Wells
Inmate No. 624-216
Trumbull Correctional Institution
P.O. Box 901
Leavittsburg, Ohio 44430

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

MARY J. BOYLE, A.J.:

{¶1} Eric Wells has filed a complaint for a writ of mandamus/procedendo. Wells seeks an order from this court that requires Honorable Judge Brian J. Corrigan to render a ruling with regard to a petition for postconviction relief filed in *State v. Wells*, Cuyahoga C.P. No. CR-10-536779. We decline to issue a writ of mandamus/procedendo on behalf of Wells.

{¶2} Attached to a motion for summary judgment, filed by Judge Corrigan, is a copy of a judgment entry that demonstrates a ruling has been rendered with regard to Wells's petition for postconviction relief. Thus, Wells's complaint for a writ of mandamus/procedendo is moot. *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} It must also be noted that R.C. 2953.21 provides that a postconviction petition must be filed within 180 days of the filing of the trial transcript in the petitioner's direct appeal. Herein, the transcript in *State v. Wells*, 8th Dist. Cuyahoga No. 98388, 2013-Ohio-3722, was filed on July 2, 2012, and the petition for postconviction relief was filed on January 4, 2013. The petition for postconviction relief was filed 186 days after the transcript was filed in *Wells*, *supra*.

{¶4} Because Wells's petition for postconviction relief was untimely filed, Judge Corrigan possesses no duty to render findings of fact and conclusions of law with regard to the petition for postconviction relief. *State ex rel. Kimbrough v. Greene*, 98 Ohio St.3d 116, 2002-Ohio-7042, 781 N.E.2d 155; *State v. Chapman*, 8th Dist. Cuyahoga No. 99960, 2014-Ohio-1059. It must also be noted that a court may dismiss a petition for postconviction

relief without holding a hearing if the petition fails to demonstrate that the petitioner is entitled to relief. R.C. 2953.21(C); *State v. Piasecki*, 8th Dist. Cuyahoga No. 98952, 2013-Ohio-1191.

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

{¶6} Writ denied.

MARY J. BOYLE, ADMINISTRATIVE JUDGE

MARY EILEEN KILBANE, J., and
EILEEN T. GALLAGHER, J., CONCUR