

[Cite as *State ex rel. Carrington v. Saffold*, 2015-Ohio-1317.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
No. 102439

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**STATE EX REL. JERMONE CARRINGTON**

RELATOR

vs.

**JUDGE SHIRLEY STRICKLAND SAFFOLD**

RESPONDENT

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**JUDGMENT:  
WRIT DENIED**

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Writ of Mandamus  
Motion No. 482314  
Order No. 483156

**RELEASE DATE:** April 1, 2015

**FOR RELATOR**

Jermone Carrington  
Inmate #650-763  
Lake Erie Correctional Institution  
501 Thompson Road  
Conneaut, OH 44030

**ATTORNEYS FOR RESPONDENT**

Timothy J. McGinty  
Cuyahoga County Prosecutor  
By: James E. Moss  
Assistant Prosecuting Attorney  
Justice Center - 9<sup>th</sup> Floor  
1200 Ontario Street  
Cleveland, OH 44113

FRANK D. CELEBREZZE, JR., A.J.:

{¶1} Jermone Carrington (“Carrington”) has filed a petition for writ of mandamus. Carrington seeks an order from this court that requires respondent Judge Saffold to issue findings of fact and conclusions of law regarding the denial of the motion for postconviction relief he filed on September 4, 2014, in Cuyahoga C.P. No. CR-13-576768. Respondent has filed a motion for summary judgment, which Carrington has opposed. Respondent’s motion for summary judgment is granted for the reasons that follow.

{¶2} Respondent maintains that the petition is moot because on January 28, 2015, respondent issued findings of fact and conclusions of law concerning the denial of the postconviction petition. Because respondent has performed the act that is sought to be compelled by this original action, the petition is moot. *State ex rel. Culgan v. Kimbler*, 132 Ohio St.3d 480, 2012-Ohio-3310, 974 N.E.2d 88 (a writ of mandamus will not issue to compel an act already performed); *see also State ex rel. Pettway*, 8th Dist. Cuyahoga No. 99259, 2013-Ohio-1567, ¶ 2.

{¶3} Carrington complains that the January 28, 2015 order fails to comply with the requirements of Civ.R. 58(B). In this original action, relator sought an order compelling respondent to issue findings of fact and conclusions of law regarding the denial of his motion for postconviction relief, which has been done. Relator has an adequate remedy at law to challenge the January 28, 2015 order by way of an appeal. Failure to comply with the requirements of Civ.R. 58(B) tolls the time for appealing the final order but does not

affect the finality of the order. *Clermont Cty. Transp. Improvement Dist. v. Gator Milford, L.L.C.*, Slip Opinion No. 2015-Ohio-241, ¶ 11 (“The 30-day time period to file a notice of appeal begins upon service and notation of service on the docket by the clerk of courts regardless of actual knowledge by the parties.”)

{¶4} Respondent’s motion for summary judgment is granted, and Carrington’s petition for writ of mandamus is denied. Relator to pay costs. Costs 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).

{¶5} Writ denied.

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FRANK D. CELEBREZZE, JR., ADMINISTRATIVE JUDGE

TIM McCORMACK, J., and  
MARY J. BOYLE, J., CONCUR