

[Cite as *Pugh v. Buchanan*, 2015-Ohio-3149.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 103147

ALGENON PUGH

RELATOR

vs.

**CLEVELAND HTS. MUNI. JUDGE A. DEANE
BUCHANAN**

RESPONDENT

JUDGMENT:
COMPLAINT DISMISSED

Writ of Procedendo
Motion No. 486758
Order No. 487699

RELEASE DATE: August 3, 2015

FOR RELATOR

Algenon Pugh
16710 Whiteway Dr. #D-119
Cleveland, OH 44143

ATTORNEYS FOR RESPONDENT

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EILEEN A. GALLAGHER, J.:

{¶1} On June 17, 2014, the relator, Algenon Pugh, commenced this procedendo action against the respondent, Judge A. Deane Buchanan. The complaint designates lower court case number CVF-1200957 in the caption and the attached affidavit of indigency but refers to lower court case number CVF-1201374 in the body of the complaint. The complaint seeks to compel a ruling on a motion for summary judgment he allegedly filed on April 23, 2013, in *Pugh v. Joseph*, Cleveland Hts. M.C. No. CVF-1201374. Respondent filed motions to strike and to dismiss the complaint on the grounds that it requests the identical relief that was sought by *Pugh v. Buchanan*, 8th Dist. Cuyahoga No. 102963. Respondent contends App. No. 102963 is moot. In App. No. 102963, respondent filed a motion to dismiss based on the journal entry issued on June 1, 2015, in CVF-1201374, which demonstrated that a ruling was rendered with regard to Pugh's motion for summary judgment in that case.

{¶2} Pugh has not responded to either respondent's motion to strike or respondent's motion to dismiss that were filed in this action. On July 20, 2015, the Clerk of the Cleveland Heights Municipal Court submitted a certified copy of a journal entry issued on July 20, 2015 in *Pugh v. Pugh*, Cleveland Hts. M.C. No. CVF-1200957, which demonstrates that a ruling has been rendered on the summary judgment motion that was filed on April 23, 2013. At this time, respondent has issued rulings on the summary

judgment motions that were filed in both lower court cases, rendering the writ moot whether it pertains to either lower court matter. A writ of procedendo will not issue to compel the performance of a duty that has already been performed. *State ex rel. Rose v. McGinty*, 123 Ohio St.3d 86, 2009-Ohio-4050, 914 N.E.2d 366.

{¶3} Respondent's motion to dismiss is unopposed and granted. Respondent's request for attorney fees is denied. Costs to relator. Costs waived. The court directs the clerk of the Eighth District Court of Appeals to serve upon the parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

{¶4} Complaint dismissed.

EILEEN A. GALLAGHER, JUDGE

KATHLEEN ANN KEOUGH, P.J., and
SEAN C. GALLAGHER, J., CONCUR