

[Cite as *State ex rel. Young v. Gall*, 2015-Ohio-3481.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 102983

STATE OF OHIO, EX REL.
GEORGE R. YOUNG

RELATOR

vs.

HONORABLE STEVEN E. GALL, JUDGE

RESPONDENT

JUDGMENT:
WRIT DENIED

Writ of Mandamus
Motion No. 485902
Order No. 488068

RELEASE DATE: August 25, 2015

FOR RELATOR

George R. Young, pro se
Inmate No. 0119394
Cuyahoga County Jail
P.O. Box 5600
Cleveland, Ohio 44101

ATTORNEYS FOR RESPONDENT

Timothy J. McGinty
Cuyahoga County Prosecutor
By: James E. Moss
Assistant County Prosecutor
The Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

MARY J. BOYLE, J.:

{¶1} Relator, George R. Young (“Young”) has filed a petition for writ of mandamus. Young seeks an order from this court that requires respondent Judge Gall to issue findings of fact and conclusions of law regarding the petition for postconviction relief he filed on October 15, 2013, in Cuyahoga C.P. No. CR-12-566461-A. Respondent has filed a motion for summary judgment, which Young 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 August 18, 2014, 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 v. Cuyahoga Cty. Court of Common Pleas*, 8th Dist. Cuyahoga No. 99259, 2013-Ohio-1567, ¶ 2.

{¶3} Young complains that the August 18, 2014 order fails to comply with the requirements of Civ.R. 58(B) because he alleges that the clerk of courts has not issued notice. The clerk is not a party to this action. In this original action, relator sought an order compelling respondent judge 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 August 18, 2014 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.*, 141 Ohio St.3d 542, 2015-Ohio-241, 26 N.E.3d 806, ¶ 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.”). Further, respondent complied with his duty to provide the endorsement required by Civ.R. 58(B) on the order and relator does not claim otherwise.

{¶4} Respondent’s motion for summary judgment is granted, and Young’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.

MARY J. BOYLE, JUDGE

TIM McCORMACK, P.J., and
SEAN C. GALLAGHER, J., CONCUR