

[Cite as *State ex rel. Johnson v. Russo*, 2015-Ohio-4993.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 103403

STATE OF OHIO, EX REL.
NEIL GAINS JOHNSON

RELATOR

vs.

JUDGE JOHN J. RUSSO

RESPONDENT

JUDGMENT:
WRIT DENIED

Writ of Procedendo
Motion No. 488971
Order No. 490868

RELEASE DATE: December 1, 2015

FOR RELATOR

Neil Gains Johnson
Inmate No. 660432
Richland Correctional Institution
P.O. Box 8107
Mansfield, Ohio 44901

ATTORNEYS FOR RESPONDENT

Timothy J. McGinty
Cuyahoga County Prosecutor
By: James E. Moss
Assistant County Prosecutor
The Justice Center - 9th Floor
1200 Ontario Street
Cleveland, Ohio 44113

MARY EILEEN KILBANE, J.:

{¶1} On August 18, 2015, the relator, Neil Gains Johnson, commenced this procedendo action against the respondent, Judge Brian Corrigan, to compel the judge to rule on his motions to dismiss for failure to bring him to trial within the time limits of R.C. 2941.401, which he filed in the underlying cases, *State v. Johnson*, Cuyahoga C.P. Nos. CR-13-580309-A and CR-14-583327-A, on February 27, 2015. On September 8, 2015, the respondent moved for summary judgment on the grounds of mootness.¹ Attached to the dispositive motion were copies of certified journal entries file stamped September 4, 2015, in the underlying cases, granting Johnson's motions to dismiss and dismissing the underlying cases with prejudice pursuant to R.C. 2941.401. These journal entries establish that Johnson has received his requested relief, the granting of his motions, and that this procedendo action is moot. Johnson never filed a response to the motion for summary judgment.

{¶2} Accordingly, the court grants the respondent's motion for summary judgment and denies the writ. Costs assessed against respondent; costs waived. The clerk is directed to serve upon the parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

{¶3} Writ denied.

¹ The respondent, through the Cuyahoga County prosecutor, asserted that the Presiding Judge, John J. Russo, is the proper respondent in the instant case. Judge Russo issued the subject journal entries. Pursuant to Civ.R. 21, this court substitutes Judge John J. Russo as the respondent.

MARY EILEEN KILBANE, JUDGE

KATHLEEN ANN KEOUGH, P.J., and
ANITA LASTER MAYS, J., CONCUR