

[Cite as *State ex rel. Carter v. Cuyahoga Cty. Court of Common Pleas.*, 2016-Ohio-3328.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
No. 104086

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STATE OF OHIO, EX REL.  
DARNELL F. CARTER

RELATOR

VS.

CUYAHOGA COUNTY  
COURT OF COMMON PLEAS, ET AL.

RESPONDENTS

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**JUDGMENT:**  
**WRIT DENIED**

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Writ of Mandamus  
Motion No. 494908  
Order No. 496561

**RELEASE DATE:** June 8, 2016

**FOR RELATOR**

Darnell F. Carter  
Inmate No. 660778  
Belmont Correctional Institution  
65518 Bannock Road, P.O. Box 540  
Saint Clairsville, Ohio 43950

**ATTORNEYS FOR RESPONDENTS**

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

FRANK D. CELEBREZZE, JR., J.:

{¶1} Darnell F. Carter has filed a petition for writ of mandamus. Carter seeks an order from this court requiring respondents Judge Astrab and the common pleas court to issue findings of fact and conclusions of law regarding the denial of the motion for postconviction relief that Carter filed on March 12, 2015, in Cuyahoga C.P. Nos. CR-14-582508-A, CR-14-583209-A, CR-14-583775-A, and CR-14-585343-A. Respondents have filed a motion for summary judgment indicating that the petition is moot because findings of fact and conclusions of law were filed in these cases on March 29, 2016. Respondents have provided copies of these orders in support of the motion for summary judgment. The motion for summary judgment is granted.

{¶2} Respondent Judge Astrab has performed the act that is sought to be compelled by this original action; therefore 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} Respondents' motion for summary judgment is granted, and Carter's petition for a 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).\_\_

{¶4} Writ denied.

FRANK D. CELEBREZZE, JR., JUDGE

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