

[Cite as *State ex rel. Murray v. O'Malley*, 2016-Ohio-5333.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 104118

STATE OF OHIO, EX REL.
SARAH MURRAY

RELATOR

vs.

JUDGE THOMAS F. O'MALLEY

RESPONDENT

JUDGMENT:
WRIT DENIED

Writ of Procedendo
Motion No. 494519
Order No. 497681

RELEASE DATE: August 8, 2016

ATTORNEY FOR RELATOR

Michael B. Telep
4438 Pearl Road
Cleveland, Ohio 44109

ATTORNEYS FOR RESPONDENT

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

MARY EILEEN KILBANE, J.:

{¶1} Sarah Murray has filed a complaint for a writ of procedendo. Murray seeks an order from this court that requires Judge Thomas F. O'Malley to render a ruling with regard to the Objections to Magistrate's Decision that she filed on September 2, 2015 in *In re I.J.*, Cuyahoga C.P. Juv. No. SU14704092. Respondent filed a motion for summary judgment, including evidentiary materials, which relator has not opposed. For the reasons that follow, we grant the motion for summary judgment and deny the writ.

{¶2} Attached to Judge O'Malley's motion for summary judgment are copies of judgment entries demonstrating that a ruling was rendered with regard to the objections that Murray filed to the magistrate's decision.

{¶3} In addition, after this action was filed Judge O'Malley issued an order pursuant to Murray's request for clarification. By order dated February 23, 2016, the court noted that on September 2, 2015, Murray had filed an objection to the magistrate's decision filed on August 21, 2015, and that she filed a supplemental objection on October 2, 2015. The magistrate filed four decisions on August 21, 2015. Murray did not identify which magistrate's decision was relevant to her objections, nor did she attach a copy of the relevant magistrate's decision. Nonetheless, the court clarified that the September 15, 2015 order overruled Murray's objections only after the court had reviewed the objections as well as all four of the August 21, 2015 magistrate's decisions.

The court, therefore, adopted and approved all four of the magistrate's decisions issued on August 21, 2015.

{¶4} Respondent argues that the orders presented establish that the court has ruled on Murray's objections and that she is not entitled to procedendo relief. Murray did not oppose the motion for summary judgment.

{¶5} Because there is no evidence to refute that respondent ruled on the objections that form the basis of this action, the complaint for a writ of procedendo is moot. *State ex rel. Jerningham v. Cuyahoga Cty. Court of Common Pleas*, 74 Ohio St.3d 278, 1996-Ohio-117, 658 N.E.2d 723; *State ex rel. Gantt v. Coleman*, 6 Ohio St.3d 5, 450 N.E.2d 1163 (1983).

{¶6} Respondent's motion for summary judgment is granted. Costs to Judge O'Malley. 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).

{¶7} Writ denied.

MARY EILEEN KILBANE, JUDGE

KATHLEEN ANN KEOUGH, P.J., and
FRANK D. CELEBREZZE, JR., J., CONCUR