

[Cite as *State ex rel. Manville v. Astrab*, 2016-Ohio-5336.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 104246

STATE OF OHIO, EX REL.
TODD MANVILLE

RELATOR

vs.

JUDGE MICHAEL K. ASTRAB

RESPONDENT

JUDGMENT:
WRIT DENIED

Writ of Procedendo
Motion No. 495260
Order No. 497747

RELEASE DATE: August 5, 2016

FOR RELATOR

Todd Manville, pro se
Chillicothe Correctional Institution
Inmate No. A532-223
P.O. Box 5500
Chillicothe, Ohio 45601

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

FRANK D. CELEBREZZE, JR., J.:

{¶1} Todd Manville, relator, has petitioned this court to issue a writ of procedendo to compel the trial court to rule on his motion to vacate void judgment, filed June 29, 2011, in *State v. Manville*, Cuyahoga C.P. No. CR-07-491035-A. Respondent has filed a motion for summary judgment. We grant respondent's motion for summary judgment and deny relator's complaint because it is moot.

{¶2} Respondent's motion for summary judgment attached a copy of the trial court's entry that was journalized on March 22, 2016, which demonstrates that a ruling has been rendered with regard to relator's motion. "[R]elief is unwarranted because mandamus and procedendo will not compel the performance of a duty that has already been performed." *State ex rel. Hopson v. Cuyahoga Cty. Court of Common Pleas*, 135 Ohio St.3d 456, 2013-Ohio-1911, 989 N.E.2d 49, ¶ 4. Relator has not opposed the motion for summary judgment.

{¶3} Respondent's motion for summary judgment is granted and relator's complaint for writ of procedendo is denied. Costs are assessed against respondent but are 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

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