

[Cite as *State ex rel. Carr v. Saffold*, 2016-Ohio-5853.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 104475

STATE OF OHIO, EX REL.
REZATA C. CARR

RELATOR

vs.

JUDGE SHIRLEY S. SAFFOLD

RESPONDENT

JUDGMENT:
WRIT DENIED

Writ of Mandamus
Motion No. 497107
Order No. 499451

RELEASE DATE: September 14, 2016

FOR RELATOR

Rezata C. Carr, pro se
Belmont Correctional Institution
Inmate No. A643630
P.O. Box 540
Saint Clairsville, Ohio 43950

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

SEAN C. GALLAGHER, J.:

{¶1} On May 13, 2016, the relator, Rezata Carr, commenced this mandamus action against the respondent, Judge Shirley Strickland Saffold, to compel the judge to issue a ruling on his “Motion requesting reinstatement of journalized entry for appeal as of right” that Carr filed on September 14, 2015, in the underlying case, *State v. Carr*, Cuyahoga C.P. No. CR-13-572866-A. On June 8, 2016, the respondent judge, through the Cuyahoga County prosecutor, moved for summary judgment on the grounds of mootness. Attached to the dispositive motion is a certified copy of a May 23, 2016 journal entry in which the respondent denied the subject motion. Carr never filed a brief in opposition.

{¶2} The May 23, 2016 entry establishes the respondent judge fulfilled her duty to rule on the motion and that Carr obtained his requested relief, a ruling on the motion. Therefore this mandamus action is moot.¹

{¶3} Accordingly, this court grants the respondent’s motion for summary judgment and denies the application for a writ of mandamus. Respondent to pay costs;

¹The requisites for mandamus are well established: (1) the relator must have a clear legal right to the requested relief, (2) the respondent must have a clear legal duty to perform the requested relief, and (3) there must be no adequate remedy at law. Additionally, although mandamus may be used to compel a court to exercise judgment or to discharge a function, it may not control judicial discretion, even if that discretion is grossly abused. *State ex rel. Ney v. Niehaus*, 33 Ohio St.3d 118, 515 N.E.2d 914 (1987).

costs waived. This court directs the clerk of courts to serve all parties notice of this judgment and its date of entry upon the journal as required by Civ.R. 58(B).

{¶4} Writ denied.

SEAN C. GALLAGHER, JUDGE

LARRY A. JONES, SR., A.J., and
MARY EILEEN KILBANE, J., CONCUR