

[Cite as *State ex rel. Manville v. Sutula*, 2016-Ohio-5939.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 104727

STATE OF OHIO EX REL.
TODD MANVILLE

RELATOR

vs.

JUDGE JOHN D. SUTULA

RESPONDENT

JUDGMENT:
WRIT DENIED

Writ of Procedendo
Motion No. 498780
Order No. 499528

RELEASE DATE: September 20, 2016

FOR RELATOR

Todd Manville, pro se
Inmate No. 532-223
Chillicothe Correctional Institution
P.O. Box 5500
Chillicothe, Ohio 45601

ATTORNEYS FOR RESPONDENT

Timothy J. McGinty
Cuyahoga County Prosecutor
BY: Charles E. Hannan
Assistant County Prosecutor
8th Floor Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

MARY J. BOYLE, J.:

{¶1} Todd Manville has filed a complaint for a writ of procedendo through which he seeks an order that requires Judge John D. Sutula to issue rulings with regard to five separate motions that were filed in *Manville v. Hazen*, Cuyahoga C.P. No. CV-16-860031. Judge Sutula has filed a motion for summary judgment that is granted for the following reasons.

{¶2} Manville seeks to compel Judge Sutula to immediately issue rulings with regard to the following motions as filed in *Manville*:

- 1) motion for court-arranged transportation for plaintiff to attend all hearings (filed April 26, 2016);
- 2) motion for assignment of court-appointed counsel (filed April 26, 2016);
- 3) motion for default judgment (filed May 27, 2016);
- 4) motion for leave to file motion for summary judgment (filed May 27, 2016); and
- 5) motion to compel pursuant to Civ.R. 45(C)(2)(b) (filed June 6, 2016).

{¶3} In order for this court to issue a writ of procedendo, Manville must demonstrate that he possesses a clear legal right to the relief requested and that there exists no adequate remedy in the ordinary course of the law. *State ex rel. Brown v. Shoemaker*, 38 Ohio St.3d 344, 528 N.E.2d 188 (1983). Manville must also demonstrate that Judge Sutula possesses a clear legal duty that requires him to proceed to judgment. *State ex rel. Cochran v. Quillin*, 20 Ohio St.2d 6, 251 N.E.2d 607 (1969). Finally, a writ

of procedendo is appropriate when a court has refused to render a judgment or has unnecessarily delayed proceeding to judgment. *State ex rel. Doe v. Tracy*, 51 Ohio App.3d 198, 555 N.E.2d 674 (12th Dist.1988).

{¶4} Attached to Judge Sutula's motion for summary judgment are exhibits that demonstrate rulings have been rendered with regard to the motion for default judgment, the motion for leave to file a motion for summary judgment, and the motion to compel. Thus, Manville's complaint for a writ of procedendo is moot as it relates to the aforesaid three motions. *State ex rel. Jerninghan v. Cuyahoga Cty. Court of Common Pleas*, 74 Ohio St.3d 278, 658 N.E.2d 723 (1996); *State ex rel. Gantt v. Coleman*, 6 Ohio St.3d 5, 450 N.E.2d 1163 (1983); *Henderson v. Saffold*, 8th Dist. Cuyahoga No. 100406, 2014-Ohio-306.

{¶5} In addition, a period of only five months has passed since the filing of the motion for transportation to attend all hearings and the motion for court- appointed counsel. A lapse of five months does not constitute an unreasonable delay on the part of Judge Sutula, which requires the intercession of this court. *State ex rel. Bunting v. Haas*, 102 Ohio St.3d 161, 2004-Ohio-2055, 807 N.E.2d 359; *State ex rel. Levin v. Sheffield Lake*, 70 Ohio St.3d 104, 637 N.E.2d 319 (1994); *State ex rel. Turpin v. Stark Cty. Court of Common Pleas*, 8 Ohio St.2d 1, 220 N.E.2d 670 (1966). Thus, we find that Manville is not entitled to a writ of procedendo vis-a-vis the motions that are pending in Cuyahoga C.P. No. CV-16-860031.

{¶6} Finally, it must be noted that a prison inmate possesses no constitutional right to be conveyed to court for civil proceedings. *Mancino v. Lakewood*, 36 Ohio App.3d 219, 523 N.E.2d 332 (8th Dist.1987). Nor does a litigant in a civil action possess a generalized right to appointed counsel. The right to appointed counsel is recognized only when the litigant's interest in personal freedom is impaired or the right is provided by state statute. *Lassiter v. Dept. of Social Servs. of Durham Cty.*, 452 U.S. 18, 101 S.Ct 2153, 68 L.Ed.2d 640 (1981); *State ex rel. Asberry v. Payne*, 82 Ohio St.3d 44, 693 N.E.2d 794 (1998); *Roth v. Roth*, 65 Ohio App.3d 768, 585 N.E.2d 482 (6th Dist.1989).

{¶7} Accordingly, we grant Judge Sutula's motion for summary judgment. Costs to Manville. The court directs the clerk of courts to serve all parties with notice of this judgment and the date of entry upon the journal as required by Civ.R. 58(B).

{¶8} Writ denied.

MARY J. BOYLE, JUDGE

EILEEN T. GALLAGHER, P.J., and
FRANK D. CELEBREZZE, JR., J., CONCUR