

**COURT OF APPEALS OF OHIO**

**EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA**

STATE OF OHIO EX REL.	:	
JAMI DABERNIG,	:	
	:	
Relator,	:	No. 115319
	:	
v.	:	
	:	
JUDGE MICHELLE D. EARLEY,	:	
	:	
Respondent.	:	

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**JOURNAL ENTRY AND OPINION**

**JUDGMENT:** COMPLAINT DISMISSED  
**DATED:** September 5, 2025

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Writ of Procedendo and Mandamus  
Motion No. 587435  
Order No. 587472

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***Appearances:***

Michela Huth, *for relator*.

Mark D. Griffin, Director of Law, City of Cleveland, and  
Gilbert Blomgren and J.R. Russell, Assistant Directors of  
Law, *for respondent*.

SEAN C. GALLAGHER, J.:

{¶ 1} Jami Dabernig, the relator, has filed a complaint for a writ of procedendo and mandamus. Dabernig seeks an order from this court that compels

Judge Michelle D. Earley, the respondent, to comply with App.R. 9(C)(1) and settle a proposed statement of proceedings or evidence filed in *Cleveland v. Dabernig*, Cleveland M.C. No. 2023-CRB-006494. Judge Earley has filed a motion to dismiss that is granted.

**{¶ 2}** Attached to the motion to dismiss is a copy of a judgment entry, journalized August 22, 2025, which demonstrates that Judge Earley has addressed Dabernig’s proposed App.R. 9(C) statement and issued a judgment with regard to the proposed App.R. 9(C) statement. Judge Earley has performed her duty under App.R. 9(C) to act on the statement of evidence by refusing to settle or approve it based upon the fact that no trial was scheduled or had on January 21, 2025. *State ex rel. Johnson v. Hunter*, 64 Ohio St.3d 243 (1992); *Aurora v. Bellinger*, 2008-Ohio-6772 (11th Dist.). *See also State ex rel. Hull v. Gaughan*, 39 Ohio St.3d 145 (1988); *State ex rel. Fant v. Trumbo*, 22 Ohio St.3d 207 (1986).

**{¶ 3}** Relief is unwarranted because the request for a writ of procedendo and mandamus is moot. Procedendo or mandamus will not compel the performance of a duty that has already been performed. *State ex rel. Ames v. Pokorny*, 2021-Ohio-2070; *Thompson v. Donnelly*, 2018-Ohio-4073; *State ex rel. S.Y.C. v. Floyd*, 2020-Ohio-5189 (8th Dist.). *See also State ex rel. Williams v. Croce*, 2018-Ohio-2703; *State ex rel. Fontanella v. Kontos*, 2008-Ohio-1431.

**{¶ 4}** Accordingly, we grant Judge Earley’s motion to dismiss. Costs waived. 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).

{¶ 5} Complaint dismissed.

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SEAN C. GALLAGHER, JUDGE

LISA B. FORBES, P.J., and  
KATHLEEN ANN KEOUGH, J., CONCUR