

[Cite as *State ex rel. Pesci v. Corrigan*, 2010-Ohio-2362.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 94845

**STATE OF OHIO, EX REL.
JAMES PESCI**

RELATOR

vs.

JUDGE PETER CORRIGAN

RESPONDENT

**JUDGMENT:
COMPLAINT DISMISSED**

Writ of Mandamus/Procedendo
Motion No. 433238 and 433014
Order No. 433994

RELEASE DATE: May 24, 2010

FOR RELATOR

James Pesci, pro se
35685 West Island Road
Eastlake, Ohio 44095

ATTORNEYS FOR RESPONDENT

William D. Mason
Cuyahoga County Prosecutor

By: James E. Moss
Assistant County Prosecutor
8th Floor Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

CHRISTINE T. MCMONAGLE, J.:

{¶ 1} Relator, James Pesci, complains that respondent judge has not disposed of the motions to vacate void sentence which he filed in the underlying cases *State v. Pesci*, Cuyahoga Cty. Court of Common Pleas Case Nos. CR-364562, 370751 and 370752. On March 12, 2010, respondent did, however, issue a journal entry in each of the underlying cases which stated: "Defendant's motion to vacate void sentence is denied. Defendant's sentence has been served, the case is over no post release control was ordered in this case." Pesci has appealed those entries and his appeal remains pending as *State v. Pesci*, Cuyahoga App. No. 94904.

{¶ 2} Pesci has filed a “motion for abeyance and/or stay and/or in the alternative motion to dismiss, ‘without prejudice.’” Although Pesci expresses concern that Case No. 94904 may have been dismissed, as noted above, his appeal from the denial of his motion to vacate void sentence remains pending. His complaint is, therefore, moot. As a consequence, we deny his request that we stay this action and treat his motion to dismiss as a notice of voluntary dismissal.

{¶ 3} Accordingly, respondent’s motion to dismiss is overruled as moot and this action is dismissed in light of relator’s motion to dismiss which is treated as a notice of dismissal. Relator to pay costs. The clerk is directed to serve upon the parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

Complaint dismissed.

CHRISTINE T. MCMONAGLE, JUDGE

MARY EILEEN KILBANE, P.J., and
MARY J. BOYLE, J., CONCUR