

[Cite as *State ex rel. Rose v. McGinty*, 2010-Ohio-5020.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 95451

**STATE OF OHIO, EX REL.
FLOYD ROSE**

RELATOR

vs.

HONORABLE TIMOTHY J. MCGINTY

RESPONDENT

**JUDGMENT:
WRIT DENIED**

Writ of Procedendo
Motion No. 436509
Order No. 437972

RELEASE DATE: October 13, 2010

FOR RELATOR

Floyd Rose, pro se
Inmate # 523-596
Richland Correctional Institution
P.O. Box 8107
Mansfield, Ohio 44901

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

MARY J. BOYLE, J.:

{¶ 1} Floyd Rose, the relator, has filed a complaint for a writ of procedendo. Rose seeks an order from this court, which requires Judge Timothy J. McGinty, the respondent, to re-enter a judgment entry of conviction and sentence in the underlying action of *State v. Rose*, Cuyahoga County Court of Common Pleas Case No. CR-492008. Judge McGinty has

filed a motion for summary judgment, which we grant for the following reasons.

{¶ 2} Rose, through his complaint for a writ of procedendo, argues that the sentencing journal entry of March 27, 2007, fails to comport with the requirements of Crim.R. 32(C) and R.C. 2505.02. Contrary to Rose's argument, the sentencing journal entry of March 27, 2007, is not defective and fully complies with Crim.R. 32(C) and R.C. 2505.02. The Supreme Court of Ohio, in *State v. Baker*, 119 Ohio St.3d 197, 2008-Ohio-3330, 893 N.E.2d 163, established that a sentencing journal entry is a final appealable order under R.C. 2505.02 and complies with Crim.R. 32(C) when it sets forth: (1) the guilty plea, the jury verdict, or the finding of the court upon which the conviction is based; (2) the sentence; (3) the signature of the judge; and (4) entry on the journal by the clerk of the court. Herein, Judge McGinty's sentencing journal entry sets forth (1) the plea of guilty; (2) the sentence with regard to the offenses of robbery and failure to comply with order or signal of a police officer; (3) the signature of Judge McGinty; and (4) entry on the journal by the clerk of court. The sentencing journal entry fully complies with *Baker*. Thus, Judge McGinty possesses no duty to re-sentence Rose. *State ex rel. Barr v. Sutula*, 126 Ohio St.3d 193, 2010-Ohio-3213, 931 N.E.2d 1078; *State ex rel. Pruitt v. Cuyahoga Cty. Court of Common Pleas*, 125 Ohio

St.3d 402, 2010-Ohio-1808, 928 N.E.2d 722. Accordingly, we grant Judge McGinty's motion for summary judgment. Costs to Rose. It is further ordered that the Clerk of the Eighth District Court of Appeals serve notice of this judgment upon all parties as required by Civ.R. 58(B).

Writ denied.

MARY J. BOYLE, JUDGE

SEAN C. GALLAGHER, A.J., and
FRANK D. CELEBREZZE, JR., J., CONCUR