

[Cite as *Limbach v. Henson*, 2011-Ohio-1467.]

COURT OF APPEALS
RICHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

PAUL R. LIMPACH	:	JUDGES:
	:	Hon. W. Scott Gwin, P.J.
	:	Hon. Julie A. Edwards, J.
Petitioner	:	Hon. Patricia A. Delaney, J.
	:	
-vs-	:	
	:	Case No. 2010-CA-132
JUDGE JAMES D. HENSON	:	
	:	
	:	
Respondent	:	<u>OPINION</u>

CHARACTER OF PROCEEDING:	Writ
JUDGMENT:	Dismissed
DATE OF JUDGMENT ENTRY:	March 24, 2011

APPEARANCES:

For: Petitioner	For: Respondent
PAUL L. LIMPACH PRO SE Marion Correctional Institute BOX 57 MARION, OH 43301	KIRSTEN PSCHOLKA-GARTNER Assistant Richland County Prosecutor 38 South Park, 2nd Floor Mansfield, OH 44902

Gwin, P.J.

{¶1} Petitioner, Paul R. Limpach, has filed a petition requesting this Court issue a writ of procedendo compelling Judge James Henson of the Richland County Court of Common Pleas to rule on Petitioner's Motion to Return Property. This motion was filed in Richland County on April 30, 2010. The instant complaint was filed on November 18, 2010. The trial court issued a ruling on the motion in the criminal case on December 8, 2010.

{¶2} Respondent has filed a motion to dismiss the petition based upon the petition being made moot because the trial court has now issued on a ruling on the motion.

{¶3} The Supreme Court has held, "Neither procedendo nor mandamus will compel the performance of a duty that has already been performed. *State ex rel. Grove v. Nadel* (1998), 84 Ohio St.3d 252, 253, 703 N.E.2d 304, 305." *State ex rel. Kreps v. Christiansen* (2000), 88 Ohio St.3d 313, 318, 725 N.E.2d 663, 668.

{¶4} Because the requested relief has already been obtained, we find the petition for writ of mandamus is moot and grant Respondent's motion to dismiss.

{¶5} MOTION TO DISMISS GRANTED.

{¶6} CAUSE DISMISSED.

{¶7} COSTS TO RELATOR.

{¶8} IT IS SO ORDERED.

By Gwin, P.J.,

Edwards, J., and

Delaney, J., concur

HON. W. SCOTT GWIN

HON. JULIE A. EDWARDS

HON. PATRICIA A. DELANEY

WSG:clw 0307

