

[Cite as *State ex rel. Mooney v. Irving*, 2011-Ohio-686.]

COURT OF APPEALS
HOLMES COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO, EX REL.
SANDRA L. MOONEY

Relator

JUDGES:

Hon. John W. Wise, P. J.
Hon. Julie A. Edwards, J.
Hon. Patricia A. Delaney, J.

-vs-

JANE IRVING, JUDGE OF THE
HOLMES COUNTY MUNICIPAL
COURT

Respondent

Case No. 10 CA 021

OPINION

CHARACTER OF PROCEEDING:

Petition for Writ of Procedendo

JUDGMENT:

Denied

DATE OF JUDGMENT ENTRY:

February 15, 2011

APPEARANCES:

For Relator

JOSEPH F. SALZGEBER
Post Office Box 799
Brunswick, Ohio 44212-0799

For Respondent

STEPHEN D. KNOWLING
PROSECUTING ATTORNEY
CHRISTINE C. WILLIAMS
ASSISTANT PROSECUTOR
164 East Jackson Street
Millersburg, Ohio 44654

Wise, P. J.

{¶1} Relator, Sandra Mooney, has filed a petition requesting this Court issue a writ of procedendo compelling Judge Jane Irving of the Holmes County Municipal Court to issue a sentencing entry in Case Number CRB 0800431.

{¶2} The instant complaint was filed on November 9, 2010. The trial court issued a ruling on the motion in the criminal cases on September 14, 2010, however, it does not appear Relator was aware of the fact the entry had been issued. Since the filing of this Complaint, Relator has become aware of the entry and was granted leave to pursue a delayed appeal in Holmes County Case Number 10CA22. Despite having been granted leave to pursue the appeal, Relator has not dismissed the instant case, therefore, we will address the merits of the petition.

{¶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 procedendo is moot and deny the Petition.

{¶15} PETITION DENIED.

{¶16} COSTS TO RELATOR.

{¶17} IT IS SO ORDERED.

By: Wise, P. J.

Edwards, J., and

Delaney, J., concur.

JUDGES

JWW/d 0114

IN THE COURT OF APPEALS FOR HOLMES COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO, EX REL.	:	
SANDRA L. MOONEY	:	
	:	
Relator	:	
	:	
-vs-	:	JUDGMENT ENTRY
	:	
JANE IRVING, JUDGE OF THE	:	
HOLMES COUNTY MUNICIPAL COURT	:	
	:	
Respondent	:	Case No. 10 CA 021

For the reasons stated in our accompanying Memorandum-Opinion, the petition for writ of procedendo is moot and the petition is denied.

Costs assessed to Relator.

JUDGES