

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
ERIE COUNTY

State of Ohio, ex rel.
Ohio Turnpike Commission

Court of Appeals No. E-10-015

Relator

v.

The Honorable Tygh M. Tone

DECISION AND JUDGMENT

Respondent

Decided: April 28, 2010

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Bruce G. Rinker, Anthony J. Coyne, and John W. Monroe,
for relator.

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COSME, J.

{¶ 1} This matter is before the court on the petition of relator Ohio Turnpike Commission for the issuance of a peremptory writ of mandamus. Relator seeks an order from this court compelling respondent, Judge Tygh M. Tone, from the Erie County Court of Common Pleas, to vacate the March 25, 2010 order which lifted the stay in *Ohio*

Turnpike Comm. v. Spellman Outdoor Advertising Servs., LLC, Erie County Common Pleas case No. 2009-CV0198. Respondent has not yet filed an answer or motion to dismiss the petition.

{¶ 2} On April 9, 2010, this court affirmed the decision of the Erie County Common Pleas Court in the underlying case, *Ohio Turnpike Comm. v. Spellman Outdoor Advertising Servs., LLC*, 6th Dist. No. E-09-038, 2010-Ohio-1705. We held that the Ohio Turnpike Commission's complaint was properly dismissed by the trial court. Therefore, we find relator's petition for a writ of mandamus is moot and denied. We have issued a decision in the case upon which relator seeks a peremptory writ of mandamus. Costs shall be divided equally by relator and respondent.

{¶ 3} It is so ordered.

WRIT DENIED.

Peter M. Handwork, J.

JUDGE

Mark L. Pietrykowski, J.

JUDGE

Keila D. Cosme, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
<http://www.sconet.state.oh.us/rod/newpdf/?source=6>.