

The Warden has released Moore to Cuyahoga County for a new trial of the charges in case number CR-392440. (Doc. 62). Mr. Moore remains in custody pursuant to other convictions in the Cuyahoga County Common Pleas Court and the Lorain County Common Pleas Court. (Doc. 18). From the record it is clear that Mr. Moore received the relief his habeas petition called for, that his conviction in case CR-392440 would be vacated. That relief does not prevent his post-release retrial. Once the Warden has complied with the terms of the conditional writ, this Court has no basis for continued jurisdiction over the issue. *See Eddelman v. McKee*, 586 F.3d 409 (6th Cir. 2009).

Assuming the Court did have jurisdiction to consider Mr. Moore's dismissal, the Sixth Circuit has explained that retrial can be barred only under extraordinary circumstances. *See Saterlee v. Wolfenbarger*, 453 F.3d 362, 370 (6th Cir. 2006). Those circumstances are not present in this instant matter as there has been no inexcusable or repeated delay, no malfeasance, and no prejudice toward Mr. Moore's defense caused by the thirty-day extension requested by the Respondent.

Accordingly, Mr. Moore's "Motion to Dismiss All Charges Due to Violations of Conditional Writ," is denied.

IT IS SO ORDERED.

/s/Lesley Wells
UNITED STATES DISTRICT JUDGE