

[Cite as *State ex rel. Lisboa v. McCafferty*, 2009-Ohio-5243.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
**No. 93535**

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**STATE OF OHIO, EX REL., JOSE LISBOA**

RELATOR

vs.

**BRIDGET M. MCCAFFERTY, JUDGE**

RESPONDENT

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**JUDGMENT:  
WRIT DENIED**

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WRIT OF PROCEDENDO  
MOTION NO. 425485  
ORDER NO. 426516

**RELEASE DATE:** September 28, 2009

## **FOR RELATOR**

Jose Lisboa, pro se  
Rua Santo Amaro  
320, Guaruja  
Sao Paulo, Brasil 11410-070

## **ATTORNEYS FOR RESPONDENT**

William D. Mason  
Cuyahoga County Prosecutor

By: James E. Moss  
Assistant Prosecuting Attorney  
the Justice Center, 9<sup>th</sup> Floor  
1200 Ontario Street  
Cleveland, Ohio 44113

SEAN C. GALLAGHER, P.J.:

{¶ 1} On June 26, 2009, the relator, Jose Lisboa, commenced this procedendo action against the respondent, Judge Bridget McCafferty, to compel the judge to rule on his motion for return of property which he filed in the underlying case, *State v. Lisboa*, Cuyahoga County Common Pleas Court Case No. CR-451451 on May 28, 2008. On August 19, 2009, the respondent moved for summary judgment on the grounds of mootness. Attached to the dispositive motion was a copy of a certified journal entry, file-stamped August 14, 2009, in the underlying case, denying Lisboa's motion for return of property.<sup>1</sup> This journal

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<sup>1</sup> The presence of a typographical error does not nullify the respondent's ruling. The August 14, 2009 order states that the motion for return of property was filed on

entry establishes that Lisboa has received his requested relief, a ruling on his motion, and that this procedendo action is moot. Lisboa never filed a timely response to the motion for summary judgment.

{¶ 2} Accordingly, the court grants the respondent's motion for summary judgment and denies the writ. Each side to bear its own costs. The clerk is

{¶ 3} directed to serve upon the parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

**Writ denied.**

**SEAN C. GALLAGHER, PRESIDING JUDGE**

**MARY EILEEN KILBANE, J., and  
JAMES J. SWEENEY, J., CONCUR**

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May 28, 2009. However, the docket shows that Lisboa's only motion for return of property was filed on May 28, 2008.