

[Cite as *State ex rel. Gross v. Matia*, 2009-Ohio-5244.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
**No. 93600**

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**STATE OF OHIO, EX REL.,  
YULIAS GROSS**

RELATOR

vs.

**HON. DAVID T. MATIA, JUDGE**

RESPONDENT

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**JUDGMENT:  
WRIT DENIED**

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WRIT OF MANDAMUS/PROCEDENDO  
MOTION NO. 424719  
ORDER NO. 425985

**RELEASE DATE:** September 28, 2009

**FOR RELATOR**

Yulias Gross, pro se  
#376-558  
Mansfield Correctional Inst.  
1150 North Main Street  
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Mansfield, Ohio 44901-0788

**ATTORNEYS FOR RESPONDENT**

William D. Mason  
Cuyahoga County Prosecutor

BY: James E. Moss  
Assistant County Prosecutor  
8th Floor Justice Center  
1200 Ontario Street  
Cleveland, Ohio 44113

MARY J. BOYLE, J.:

{¶ 1} Relator requests that this court compel respondent judge to dispose of his motion to withdraw guilty plea in *State v. Gross*, Cuyahoga County Court of Common Pleas Case No. CR-375719 on June 12, 2008.

{¶ 2} Respondent has filed a motion for summary judgment attached to which is a copy of a journal entry issued by respondent and received for filing by the clerk on July 27, 2009 in which respondent denied the motion to withdraw guilty plea. Relator has opposed the motion. He argues that this court should not assess court costs against him, because his motion was pending for more than a year and respondent did not dispose of the motion to withdraw guilty plea

until Gross filed this action. Respondent argues that this action in mandamus is moot. We agree with respondent that this action is moot, but we also agree with Gross that he should not be responsible for the costs of this action.

{¶ 3} Accordingly, respondent's motion for summary judgment is granted. Respondent to pay costs. The clerk is directed to serve upon the parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

Writ denied.

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MARY J. BOYLE, JUDGE

CHRISTINE T. MCMONAGLE, P.J., and  
MELODY J. STEWART, J., CONCUR