

[Cite as *State ex rel. Nicholson v. Gall*, 2017-Ohio-7327.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 105898

**STATE OF OHIO, ON EX REL.
MICHAEL NICHOLSON**

RELATOR

vs.

STEVEN E. GALL, JUDGE

RESPONDENT

**JUDGMENT:
WRIT DENIED**

Writ of Procedendo
Motion No. 508117
Order No. 509073

RELEASE DATE: August 21, 2017

FOR RELATOR

Michael Nicholson, pro se
Inmate No. A671-895
Lake Erie Correctional Institution
P.O. Box 8000
501 Thompson Road
Conneaut, Ohio 44030

ATTORNEYS FOR RESPONDENT

Michael C. O'Malley
Cuyahoga County Prosecutor
By: James E. Moss
Assistant County Prosecutor
The Justice Center
1200 Ontario Street
Cleveland, Ohio 44113

TIM McCORMACK, P.J.:

{¶1} On June 15, 2017, the relator, Michael Nicholson, commenced this procedendo action against the respondent, Judge Steven Gall, to compel the judge to rule on his motion to withdraw guilty plea, which he filed on January 10, 2017, in the underlying case, *State v. Nicholson*, Cuyahoga C.P. No. CR-15-593304-A. On June 20, 2017, the respondent judge moved for summary judgment on the grounds of mootness. Attached to the dispositive motion is a copy of a certified journal entry, filed stamped June 19, 2017, in which the judge denied Nicholson's motion to withdraw guilty plea. Nicholson never filed a response. The June 19, 2017 journal entry establishes that the judge has proceeded to judgment on the subject motion, and this writ is moot.

{¶2} Accordingly, this court grants the respondent's motion for summary judgment and denies the application for a writ of procedendo. Respondent to pay costs; costs waived. This court directs the clerk of courts to serve all parties notice of this judgment and its date of entry upon the journal as required by Civ.R. 58(B).

{¶3} Writ denied.

TIM McCORMACK, PRESIDING JUDGE

FRANK D. CELEBREZZE, JR., J., and
LARRY A. JONES, SR., J., CONCUR