

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

STATE EX REL. JERMAEL BURTON,	:	
Relator,	:	No. 109511
v.	:	
HONORABLE TIMOTHY P. MCCORMICK, JUDGE,	:	
Respondent.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: WRIT DENIED

DATED: June 10, 2020

Writ of Mandamus
Motion No. 536978
Order No. 538824

Appearances:

Jermael Burton, *pro se*.

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and James E. Moss, Assistant Prosecuting Attorney, *for respondent*.

EILEEN A. GALLAGHER, J.:

{¶ 1} Jermael Burton has filed a complaint for a writ of mandamus. Burton seeks an order from this court that compels Judge Timothy P. McCormick to issue findings of fact and conclusions of law with regard to a petition for postconviction

relief filed on May 9, 2019, and an amended petition for postconviction relief filed on August 8, 2019, in *State v. Burton*, Cuyahoga C.P. No. CR-17-620576-A. Judge McCormick has filed a motion for summary judgment that is granted.

{¶ 2} Attached to the motion for summary judgment is a copy of the findings of fact and conclusions of law rendered in CR-17-620576-A and journalized on March 10, 2020. Relief is unwarranted because mandamus will not compel the performance of a duty that has already been performed. *State ex rel. Williams v. Croce*, 153 Ohio St.3d 348, 2018-Ohio-2703, 106 N.E.3d 55; *State ex rel. Hopson v. Cuyahoga Cty. Court of Common Pleas*, 135 Ohio St.3d 456, 2013-Ohio-1911, 989 N.E.2d 49; *State ex rel. Fontanella v. Kontos*, 117 Ohio St.3d 514, 2008-Ohio-1431, 885 N.E.2d 220.

{¶ 3} Accordingly, we grant Judge McCormick's motion for summary judgment. Costs to Burton; costs waived. The court directs the clerk of courts to serve all parties with notice of this judgment and the date of entry upon the journal as required by Civ.R. 58(B).

{¶ 4} Writ denied.

EILEEN A. GALLAGHER, JUDGE

PATRICIA ANN BLACKMON, P.J., and
FRANK D. CELEBREZZE, JR., J., CONCUR