

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

STATE EX REL. ARCHIE GRAY, :
Relator, :
v. : No. 110457
JUDGE DEENA R. CALABRESE, :
Respondent. :

JOURNAL ENTRY AND OPINION

JUDGMENT: WRIT DENIED

DATED: May 17, 2021

Writ of Procedendo/Mandamus
Motion No. 546392
Order No. 546569

Appearances:

Archie Gray, *pro se*.

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

EILEEN T. GALLAGHER, J.:

{¶ 1} Archie Gray has filed a complaint for a writ of procedendo/mandamus. Gray seeks an order from this court that requires Judge Deena R. Calabrese to issue rulings with regard to motions to vacate void judgment

filed March 30, 2020, and July 16, 2020, in *State v. Gray*, Cuyahoga C.P. No. CR-89-236255-B.

{¶ 2} Judge Calabrese has filed a motion for summary judgment. Attached to Judge Calabrese's motion for summary judgment are copies of judgment entries, journalized May 3, 2021, that denied Gray's motions to vacate void judgment. Gray's complaint for procedendo/mandamus is moot because we will not compel the performance of a duty that has already been performed. *State ex rel. Clay v. Gee*, 138 Ohio St.3d 151, 2014-Ohio-48, 4 N.E.3d 1026; *State ex rel. Fontanella v. Kontos*, 117 Ohio St.3d 514, 2008-Ohio-1431, 885 N.E.2d 220. In addition, Gray possesses an adequate remedy in the ordinary course of the law through an appeal of the judgments that denied his motions to vacate void judgment. *State ex rel. Kerns v. Simmers*, 153 Ohio St.3d 103, 2018-Ohio-256, 101 N.E.3d 430; *State ex rel. Smith v. Fuerst*, 8th Dist. Cuyahoga No. 86118, 2005-Ohio-3829.

{¶ 3} Accordingly, we grant Judge Calabrese's motion for summary judgment. Costs to Gray; 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 T. GALLAGHER, JUDGE

SEAN C. GALLAGHER, P.J., and
MARY EILEEN KILBANE, J., CONCUR