#### **COURT OF APPEALS OF OHIO**

# EIGHTH APPELLATE DISTRICT COUNTY OF CUYAHOGA

STATE EX REL., DAVEION PERRY, :

Relator, :

No. 110713

v. :

JUDGE ANDREW J. SANTOLI, :

Respondent. :

#### JOURNAL ENTRY AND OPINION

**JUDGMENT:** WRIT DENIED **DATED:** September 17, 2021

Writ of Mandamus Motion No. 548695 Order No. 548998

## Appearances:

Daveion Perry, *pro se*.

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

### EILEEN A. GALLAGHER, J.:

**{¶1}** Daveion Perry, the relator, has filed a complaint for a writ of mandamus. Perry seeks an order from this court that compels Judge Andrew J. Santoli, the respondent, to issue findings of fact and conclusions of law regarding a

petition for postconviction relief filed in *State v. Perry*, Cuyahoga C.P. No. CR-16-610816-A. Judge Santoli has filed a motion for summary judgment that we grant.

**{¶2}** Attached to the motion for summary judgment are copies of

judgment entries, journalized June 21, 2021 and August 10, 2021, which reflect that

Judge Santoli denied Perry's petition for postconviction relief, issued findings of fact

and conclusions of law mandated by R.C. 2953.21(H) and ordered a copy of the

judgment be mailed to Perry. Relief is unwarranted because the request for a writ

of mandamus is moot. 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, 885 N.E.2d 220.

 $\{\P 3\}$  Accordingly, we grant Judge Santoli's motion for summary judgment.

Costs waived.

 $\{\P 4\}$  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).

 $\{\P 5\}$  Writ denied.

EILEEN A. GALLAGHER, JUDGE

SEAN C. GALLAGHER, P.J., and ANITA LASTER MAYS, J., CONCUR