

**COURT OF APPEALS OF OHIO**

**EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA**

STATE OF OHIO, EX REL.,  
SAMMY MONTANEZ,

:

Relator,

:

No. 111699

v.

:

JUDGE JOHN D. SUTULA,

:

Respondent.

:

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**JOURNAL ENTRY AND OPINION**

**JUDGMENT:** WRIT DENIED

**DATED:** August 9, 2022

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Writ of Procedendo  
Motion No. 556904  
Order No. 556913

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***Appearances:***

Sammy Montanez, *pro se*.

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

MARY EILEEN KILBANE, J.:

{¶ 1} Sammy Montanez, the relator, has filed a complaint for a writ of procedendo. Montanez seeks an order from this court that compels Judge John D. Sutula, the respondent, to render a ruling regarding to a “motion for re-sentencing

pursuant to State v. Hunter, 2010-Ohio-657” filed in *State v. Montanez*, Cuyahoga C.P. No. CR-04-454739-A. Judge Sutula has filed a motion for summary judgment that is granted.

{¶ 2} Attached to the motion for summary judgment is a copy of a judgment entry, journalized July 27, 2022, which demonstrates that Judge Sutula has denied Montanez’s motion for resentencing. Relief is unwarranted because the request for a writ of procedendo is moot. Procedendo will not compel the performance of a duty that has already been performed. *State ex rel. Ames v. Pokorny*, 164 Ohio St.3d 538, 2021-Ohio-2070, 173 N.E.3d 1208; *Thompson v. Donnelly*, 155 Ohio St.3d 184, 2018-Ohio-4073, 119 N.E.3d 1292; *State ex rel. S.Y.C. v. Floyd*, 8th Dist. Cuyahoga No. 109602, 2020-Ohio-5189.

{¶ 3} Accordingly, we grant Judge Sutula’s motion for summary judgment. 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.

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MARY EILEEN KILBANE, JUDGE

ANITA LASTER MAYS, P.J., and  
MARY J. BOYLE, J., CONCUR