

**IN THE COURT OF APPEALS
ELEVENTH APPELLATE DISTRICT
LAKE COUNTY, OHIO**

STATE OF OHIO ex rel. DANIEL E. KOVACIC,	:	PER CURIAM OPINION
	:	
Relator,	:	CASE NO. 2017-L-001
	:	
- vs -	:	
	:	
JUDGE VINCENT CULOTTA,	:	
	:	
Respondent.		

Original Action for Writ of Procedendo.

Judgment: Petition dismissed.

L. Bryan Carr, Carr, Feneli & Carbone Co., L.P.A., 1392 S.O.M. Center Road, Mayfield Heights, OH 44124 (For Relator).

Charles E. Coulson, Lake County Prosecutor, and Michael L. DeLeone, Assistant Prosecutor, Lake County Administration Building, 105 Main Street, P.O. Box 490, Painesville, OH 44077 (Respondent).

PER CURIAM.

{¶1} Respondent, Judge Vincent Culotta of the Lake County Court of Common Pleas, moves to dismiss relator, Daniel E. Kovacic’s, petition for a writ of procedendo as moot. Relator has not responded. We dismiss.

{¶2} Under his sole claim, relator seeks a writ compelling respondent to render a decision on relator’s motion for a new trial in an underlying criminal case. Respondent has provided a certified judgment demonstrating that, after relator filed this action,

respondent overruled relator's motion.

{¶3} “As a general proposition, a writ of procedendo will only lie when the relator can demonstrate, inter alia, that he has a legal right to have a judicial officer proceed in an underlying case and release a final determination on a pending matter. *State ex rel. Fontanella v. Kontos*, 11th Dist. No. 2007-T-0055, 2007-Ohio-4213, at ¶13. In light of the nature of this element, * * * the merits of a claim in procedendo will be considered moot when the judicial officer has already completed the precise act which the relator sought to compel. *Perry v. McKay*, 11th Dist. No. 2009-T-0023, 2009-Ohio-5767, at ¶16.” *State ex rel. Davies v. Schroeder*, 11th Dist. Ashtabula No. 2013-A-0059, 2014-Ohio-973, ¶4, quoting *Davis v. Smalheer*, 11th Dist. Geauga No. 2010-G-2982, 2010-Ohio-6061, ¶5

{¶4} Relator does not contest that a final determination on relator's motion for a new trial has been issued. As respondent has performed the judicial act that relator sought to compel, the petition is moot.

{¶5} Respondent's motion to dismiss is granted.

DIANE V. GRENDALL, J., THOMAS R. WRIGHT, J., COLLEEN MARY O'TOOLE, J.,
concur.