

[Cite as *Barcus v. Marcelain*, 2010-Ohio-4062.]

COURT OF APPEALS
LICKING COUNTY, OHIO
FIFTH APPELLATE DISTRICT

ROBERT M. BARCUS	:	JUDGES:
	:	Hon. W. Scott Gwin, P.J.
	:	Hon. William B. Hoffman, J.
Petitioner	:	Hon. Sheila G. Farmer, J.
	:	
-vs-	:	
	:	Case No. 10-CA-68
JUDGE THOMAS M. MARCELAIN	:	
	:	
Respondent	:	<u>OPINION</u>

CHARACTER OF PROCEEDING: Writ

JUDGMENT: Dismissed

DATE OF JUDGMENT ENTRY: August 27, 2010

APPEARANCES:

For Petitioner

TRACY F. VANWINKLE
Assistant Prosecutor
20 South Second St., 4th Fl.
Newark, OH 43055

For Respondent

ROBERT M. BARCUS PRO SE
LONDON CORRECTIONAL INSTITUTION
1580 State Route 56
Box 69
London, OH 43140

Gwin, P.J.

{¶1} Petitioner, Robert M. Barcus, has filed a Petition for Writ of Prohibition requesting the trial court be prevented from resentencing him. The Petition suggests Respondent failed to properly impose post-release control when Petitioner was sentenced in Licking County Case Number 02 CR 096. The State of Ohio filed a motion with Respondent requesting Petitioner be resentenced to include a term of post-release control. Since the instant Petition was filed, the State of Ohio has withdrawn its request to have Petitioner resentenced in Case Number 02 CR 096.

{¶2} We find instant Petition has become moot because the relief requested has essentially been granted. See *State ex rel. Fant v. Staples* (1987), 33 Ohio St.3d 120, 515 N.E.2d 618 wherein the Supreme Court found a petition for writ of prohibition to be moot where the motion sought to be prohibited was withdrawn.

{¶3} For this reason, the Petition for Writ of Prohibition is dismissed.

{¶4} WRIT DISMISSED.

{¶5} COSTS WAIVED.

{¶6} IT IS SO ORDERED.

By Gwin, P.J.,
Hoffman, J., and
Farmer, J., concur

HON. W. SCOTT GWIN

HON. WILLIAM B. HOFFMAN

HON. SHEILA G. FARMER

IN THE COURT OF APPEALS FOR LICKING COUNTY, OHIO
FIFTH APPELLATE DISTRICT

ROBERT M. BARCUS

Petitioner

-vs-

JUDGE THOMAS M. MARCELAIN

Respondent

JUDGMENT ENTRY

CASE NO. 10-CA-68

For the reasons stated in our accompanying Memorandum-Opinion, the writ is dismissed.

HON. W. SCOTT GWIN

HON. WILLIAM B. HOFFMAN

HON. SHEILA G. FARMER