

[Cite as *State ex rel. Walker v. DeWeese*, 2017-Ohio-8240.]

COURT OF APPEALS
RICHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO, ex rel.
GARY D. WALKER

Relator

JUDGES:

Hon. Patricia A. Delaney, P. J.
Hon. John W. Wise, J.
Hon. Earle E. Wise, J.

-vs-

JUDGE JAMES DEWEESE
RICHLAND COUNTY COMMON
PLEAS COURT

Respondent

Case No. 17 CA 38

OPINION

CHARACTER OF PROCEEDING:

Writ of Mandamus

JUDGMENT:

Dismissed

DATE OF JUDGMENT ENTRY:

October 17, 2017

APPEARANCES:

For Relator

GARY D. WALKER
RICHLAND CORR. INSTITUTION
1001 Olivesburg Road
Mansfield, Ohio 44901

For Respondent

HARRISON L. CRUMRINE
ASSISTANT PROSECUTOR
38 South Park Street
Mansfield, Ohio 44902

Delaney, P. J.

{¶1} Relator, Gary Walker, has filed a Petition for Writ of Mandamus requesting this Court to order Respondent to issue a judgment entry in compliance with Crim.R. 32. Respondent filed a motion to dismiss indicating a compliant judgment entry has been issued. Relator has filed a response to the motion to dismiss acknowledging the entry has been filed but requesting court costs be imposed against Respondent.

{¶2} For a writ of mandamus to issue, the Relator must have a clear legal right to the relief prayed for, the Respondent must be under a clear legal duty to perform the requested act, and Relator must have no plain and adequate remedy in the ordinary course of law. *State, ex rel. Berger v. McMonagle* (1983), 6 Ohio St.3d 28, 6 OBR 50, 451 N.E.2d 225.

{¶3} However, the Supreme Court has held mandamus will not issue where the requested relief has been obtained, “Neither procedendo nor mandamus will compel the performance of a duty that has already been performed.” *State ex rel. Kreps v. Christiansen* (2000), 88 Ohio St.3d 313, 318, 725 N.E.2d 663, 668.

{¶4} Because Respondent has issued a judgment entry pursuant to Relator's motion for a judgment entry in compliance with Crim.R. 32, the request for a writ of mandamus has become moot. For this reason, the Petition for Writ of Mandamus is dismissed.

By: Delaney, P. J.

Wise, John, J., and

Wise, Earle, J., concur.

HON. PATRICIA A. DELANEY

HON. JOHN W. WISE

HON. EARLE E. WISE, JR.

