

[Cite as *State ex rel. Logue v. Fregiato*, 2005-Ohio-2941.]

STATE OF OHIO, BELMONT COUNTY
IN THE COURT OF APPEALS
SEVENTH DISTRICT

STATE EX REL.)	
DAVID THOMAS LOGUE,)	
)	
RELATOR,)	CASE NO. 05-BE-19
)	
VS.)	OPINION
)	and
HONORABLE FRANK A. FREGIATO.)	JOURNAL ENTRY
BELMONT COUNTY COURT,)	
NORTHERN DIVISION,)	
)	
RESPONDENT.)	

CHARACTER OF PROCEEDINGS: Petition for Writ of Prohibition and Mandamus

JUDGMENT: Petition Dismissed

APPEARANCES:

For Relator: David Thomas Logue, Pro Se
61482 South Hall Road
Jacobsburg, Ohio 43933

For Respondent: Chris Berhalter
Prosecuting Attorney
Daniel P. Fry
Assistant Prosecuting Attorney
147-A West Main Street
St. Clairsville, Ohio 43950

JUDGES:

Hon. Gene Donofrio
Hon. Joseph J. Vukovich
Hon. Mary DeGenaro

Dated: June 7, 2005

PER CURIAM.

{¶1} Petition for Writ of Prohibition and Mandamus was filed by Relator on May 10, 2005, seeking an order to prohibit Respondent from proceeding in contempt for Relator's non-payment of an outstanding fine and costs in the amount of \$641.00, arising from his 1998 misdemeanor conviction in the Belmont County Court, Northern Division.

{¶2} It may be gleaned from Relator's argument in support of his application for an extraordinary writ that his sole source of income is SSI benefits, which are arguably prohibited by federal law from being used to pay the outstanding fines and costs.

{¶3} Relator also contends that the trial court lost jurisdiction to pursue the outstanding fine and costs by its failure to act within five (5) years after the conviction was obtained, citing to R.C. 2951.07. For the reasons that follow we need not reach the merits of the Petition.

{¶4} On May 23, 2005, the Respondent filed a response seeking dismissal of the Petition. Attached to the filing is a copy of a May 18, 2005 entry from Respondent wherein the contempt motion was withdrawn, with a further statement that the state will file a civil matter. Such action by the Respondent moots this action, as the relief prayed for has been presently granted. See *State ex rel. Fant v. Staples* (1987), 33 Ohio St.3d 120, 515 N.E.2d 618.

{¶5} Accordingly, this Petition for Writ of Prohibition and Mandamus is dismissed as moot. No costs assessed.

{¶6} Final order. Clerk to serve notice as provided by the civil rules.

Donofrio, P.J., concurs.
Vukovich, J., concurs.
DeGenaro, J., concurs.