

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

State ex rel. Jasin Oliphant

Court of Appeals No. L-19-1017

Relator

v.

The Honorable Judge, Ian B. English

DECISION AND JUDGMENT

Respondent

Decided: March 25, 2019

* * * * *

Jasin Oliphant, pro se.

Julia R. Bates, Lucas County Prosecuting Attorney, John A. Borell and Elaine B. Szuch, Assistant Prosecuting Attorneys, for appellee.

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PIETRYKOWSKI, J.

{¶ 1} This matter is before the court on respondent's, Hon. Ian B. English, motion to dismiss relator's, Jasin Oliphant, petition for a writ of procedendo. For the reasons that follow, we find respondent's motion well-taken.

{¶ 2} On February 5, 2019, relator filed his petition for a writ of procedendo to compel respondent to rule on relator’s July 17, 2018 “Motion for Resentencing Based upon a Void Judgment” and August 14, 2018 “Motion for Clearance” in case No. CR-2012-2836.

{¶ 3} On February 27, 2019, we issued an alternative writ, and ordered respondent within 14 days to either do the act requested, or show cause why he is not required to do so by filing an answer or a motion to dismiss. On February 28, 2019, respondent filed his motion to dismiss. Relator has not filed a response.

{¶ 4} In his motion to dismiss, respondent states that he has now ruled on relator’s outstanding motions, and has attached a copy of the February 22, 2019 judgment entry denying relator’s “Motion for Resentencing Based upon a Void Judgment” and “Motion for Clearance.” As such, respondent argues that relator’s petition for a writ of procedendo must be dismissed as moot. We agree.

{¶ 5} “Neither procedendo nor mandamus will compel the performance of a duty that has already been performed.” *State ex rel. Grove v. Nadel*, 84 Ohio St.3d 252, 253, 703 N.E.2d 304 (1998). Further, the performance of the requested acts renders a claim for procedendo moot. *State ex rel. Howard v. Skow*, 102 Ohio St.3d 423, 2004-Ohio-3652, 811 N.E.2d 1128, ¶ 9.

{¶ 6} Accordingly, upon due consideration, we hereby dismiss relator’s petition for a writ of procedendo as moot. Costs are assessed to relator.

{¶ 7} To the clerk: Manner of Service

{¶ 8} The clerk is directed to serve upon all parties, within three days, a copy of this decision in a manner prescribed by Civ.R. 5(B).

Writ denied.

Mark L. Pietrykowski, J.

JUDGE

Arlene Singer, J.

JUDGE

Christine E. Mayle, P.J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
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