

[THE STATE EX REL.] WALKER, APPELLANT, v. KILBANE KOCH, JUDGE,
APPELLEE.

[Cite as *State ex rel. Walker v. Kilbane Koch*, 98 Ohio St.3d 295, 2003-Ohio-
856.]

*Complaint for writ of procedendo to compel common pleas court judge to
reenter a judgment in a civil proceeding so that relator could appeal
judgment — Dismissal of complaint by court of appeals affirmed.*

(No. 2002-1120 — Submitted January 21, 2003 — Decided March 12, 2003.)

APPEAL from the Court of Appeals for Cuyahoga County, No. 81131, 2002-Ohio-
2620.

Per Curiam.

{¶1} On September 19, 2001, appellee, Cuyahoga County Court of Common Pleas Judge Judith Kilbane Koch, entered a judgment dismissing the remaining defendants in a civil action brought by appellant, inmate J.W. Walker. Notice of the judgment entry was issued to the parties. On November 2, 2001, Judge Kilbane Koch denied Walker’s motion for copies of the September 19, 2001 judgment and other journal entries in the case because “the docket reflects that notice was issued as to each journal entry.”

{¶2} On April 8, 2002, Walker filed a complaint in the Court of Appeals for Cuyahoga County for a writ of procedendo to compel Judge Kilbane Koch to reenter the September 19, 2001 judgment so that he could appeal it. Judge Kilbane Koch filed a motion to dismiss. On May 23, 2002, the court of appeals granted the motion and dismissed the complaint.

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{¶3} In his appeal as of right, Walker contends that the court erred in dismissing his complaint. He asserts that the court never served him notice of the September 19, 2001 judgment.

{¶4} Walker's assertion is meritless. The docket attached to his own pleadings establishes that notice of the judgment and other journal entries was issued to all of the parties, including Walker. *Procedendo* will not compel the performance of a duty that has already been performed. *State ex rel. Grove v. Nadel* (1998), 84 Ohio St.3d 252, 253, 703 N.E.2d 304; *Martin v. Judges of Lucas Cty. Court of Common Pleas* (1990), 50 Ohio St.3d 71, 72, 552 N.E.2d 906.

{¶5} Moreover, as Judge Kilbane Koch notes, Walker had an adequate remedy in the ordinary course of law by a Civ.R. 60(B) motion for relief from judgment to raise his contention that he did not receive notice of the judgment. See, e.g., *State ex rel. Hawk v. McCracken* (1992), 65 Ohio St.3d 397, 399, 604 N.E.2d 738; *State ex rel. Bennett v. White* (2001), 93 Ohio St.3d 583, 584, 757 N.E.2d 364.

{¶6} Based on the foregoing, we affirm the judgment of the court of appeals.

Judgment affirmed.

MOYER, C.J., RESNICK, F.E. SWEENEY, PFEIFER, COOK, LUNDBERG
STRATTON and O'CONNOR, JJ., concur.

J.W. Walker, pro se.

William D. Mason, Cuyahoga County Prosecuting Attorney, and Charles
E. Hannan, Assistant Prosecuting Attorney, for appellee.
