

IN THE SUPREME COURT OF OHIO

[State ex. rel.] Thomas Thompson,

Relator,

Case No. 08-0633

v.

Original Action in Mandamus

The Honorable Judge Guy L. Reece II,

Respondent.

RESPONDENT JUDGE GUY REECE'S MOTION TO
DISMISS

Thomas W. Thompson #507-617
Ross Correctional Institution
P.O. Box 7010
Chillicothe, Ohio 43601
Relator
PRO SE

Ron O'Brien (0017245)
Prosecuting Attorney
Franklin County, Ohio

Paul Thies (0074641)
Asst. Prosecuting Attorney
373 South High Street, 13th Floor
Columbus, Ohio 43215
(614) 462-3520
FAX (614) 462-6012
pathies@franklincountyohio.gov
COUNSEL FOR JUDGE GUY REECE



MEMORANDUM IN SUPPORT

I. Facts

This action is before the Court on Relator's Petition for a Writ of Mandamus filed April 4, 2008. Relator seeks a directive from this Court ordering Judge Guy Reece to rule on a motion for post conviction relief in his underlying criminal case, *State of Ohio v. Thomas W. Thompson*, Franklin Co. Court of Common Pleas Case No. 05 CR 2556. Relator Thompson was convicted of one count of brandishing a firearm and one count of aggravated murder on January 15, 2005.

II. Law and Argument

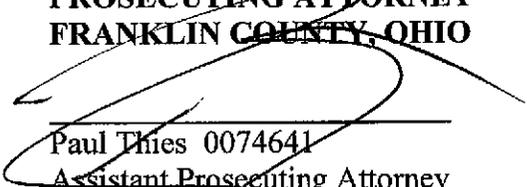
This matter is now moot. This Court has held that mandamus does not lie to compel an act which has already been performed. *State ex rel. Scruggs v. Sadler*, 2004-Ohio-2054, ¶ 5, 102 Ohio St.3d 160 (quoting, *State ex rel. Chapnick v. E. Cleveland City School Dist. Bd. Of Edn.*, 2001-Ohio-1585, 93 Ohio St.3d 449, 451). On April 24, 2008, Respondent Judge Reece rendered and filed the decision which Relator seeks that this Court compel, a copy of which is attached as exhibit A. (Ex. A). Thus, the matter is no longer pending and Respondent is under no duty to further act. This matter is moot and should therefore be dismissed.

III. Conclusion

For the foregoing reasons, Respondent respectfully requests grant the Motion to Dismiss should be granted and this action be dismissed.

Respectfully submitted,

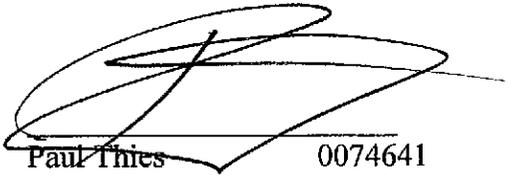
RON O'BRIEN
PROSECUTING ATTORNEY
FRANKLIN COUNTY, OHIO



Paul Thies 0074641
Assistant Prosecuting Attorney
373 South High Street, 13th Floor
Columbus, Ohio 43215
P: (614) 462-3520
F: (614) 462-6012
pathies@franklincountyohio.gov

CERTIFICATE OF SERVICE

This certifies that a copy of the foregoing was mailed via ordinary mail to Thomas W. Thompson, Relator Pro-Se, #507-617, Ross Correctional Institute, P.O. Box 7010, Chillicothe, Ohio 45601, this 24th day of April, 2008.



Paul Thies 0074641
Assistant Prosecuting Attorney

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CRIMINAL DIVISION

State of Ohio,

Plaintiff,

v.

Thomas W. Thompson, Jr.,

Defendant.

Case No. 04CR-04-2258

Judge Reece

FILED
COMMON PLEAS COURT
FRANKLIN CO., OHIO
2008 APR 24 AM 11:14
CLERK OF COURTS

**DECISION AND ENTRY DISMISSING DEFENDANT'S
PETITION TO VACATE OR SET ASIDE JUDGMENT OF CONVICTION
OR SENTENCE FILED MAY 31, 2006**

Rendered this 24th day of April 2008.

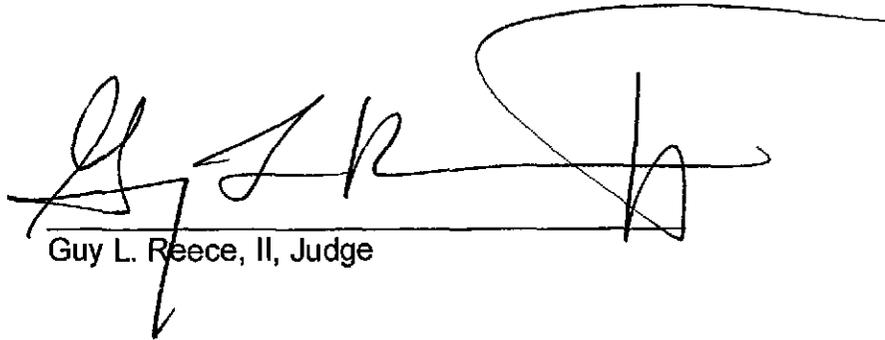
REECE, JUDGE.

This cause is before the Court on Defendant's Petition to Vacate or Set Aside Judgment of Conviction or Sentence filed on May 31, 2006. The State of Ohio filed its response to Defendant's Petition on June 12, 2006 wherein it requested the Court to dismiss Defendant's petition in that Defendant's claims were procedurally inappropriate and failed on the merits.

Defendant was tried by a jury which returned a verdict finding Defendant guilty of Murder with specification in violation of R.C. Section 2903.01 and Tampering with Evidence in violation of R.C. Section 2921.12. Defendant was sentenced to a total of Fifteen (15) years to Life and is currently incarcerated at the Ohio Department of Rehabilitation and Corrections.

For the reasons contained herein and the decisions of the Tenth District Court of Appeals in Petitioner's appeals of his conviction and sentence, Petitioner's Petition is **DENIED.**

IT IS SO ORDERED.



Guy L. Reece, II, Judge

Copies to:

Thomas W. Thompson
#507-617 JA
P. O. Box 7010
Chillicothe, OH 45601
Counsel for Plaintiff

Prosecuting Attorney's Office
373 S. High Street, 14th Floor
Columbus, OH 43215
Counsel for Defendant

Diane Mallory
Assistant Attorney General
150 East Gay Street
Columbus, OH 43215
Counsel for Defendant