

[Cite as *State ex rel. Deseignoria v. Lisotto*, 2003-Ohio-698.]

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

STATE EX REL.)	
ANTONIO DESEIGNORIA,)	
)	
RELATOR,)	CASE NO. 02-CA-249
)	
VS.)	OPINION
)	and
JUDGE ROBERT LISOTTO,)	JOURNAL ENTRY
)	
RESPONDENT.)	

CHARACTER OF PROCEEDINGS: Petition for Writ of Procedendo

JUDGMENT: Petition dismissed as moot

APPEARANCES:

For Relator: Antonio Deseignoria, pro-se
#378-624
LAECI
501 Thompson Road
Conneaut, Ohio 44030

For Respondents: Paul J. Gains
Mahoning County Prosecuting Attorney
Janice T. O'Halloran
Assistant Prosecuting Attorney
120 Market Street
Youngstown, Ohio 44503

JUDGES:

Hon. Gene Donofrio
Hon. Cheryl L. Waite
Hon. Mary DeGenaro

Dated: February 13, 2003

PER CURIAM.

{¶1} Petition for Writ of Procedendo was filed pro-se by Relator on December 27, 2002, seeking an order to compel Respondent, a judge of the Mahoning County Common Pleas Court, to proceed to judgment on a “Substitute Motion for Jail Time Credit” which Relator had filed on October 3, 2002. On January 24, 2003, Respondent filed a motion to dismiss asserting that Respondent court had, in fact, ruled on said pending motion on January 23, 2003.

{¶2} A review of the Clerk’s docket record for Mahoning County Common Pleas Case No. 94-CR-48, captioned *State of Ohio v. Antonio Deseignoria*, reveals that on January 23, 2003, Respondent issued an order granting Relator a total of 142 days of jail time credit. Respondent computed the time confined according to records of the Mahoning County Sheriff’s Department.

{¶3} In order to be entitled to a writ of procedendo, a relator must establish a clear legal right to require the court to proceed, a clear legal duty on the part of the court to proceed, and the lack of an adequate remedy in the ordinary course of law. *State ex rel. Sherrills v. Cuyahoga Cty. Court of Common Pleas* (1995), 72 Ohio St.3d 461, 462, 650 N.E.2d 899, 900. A writ is appropriate when there has been a refusal or an unnecessary delay in proceeding to judgment. *State ex rel. Crandall, Pheils & Wisniewski v. DeCessna* (1995), 73 Ohio St.3d 180, 184, 652 N.E.2d 742, 745.

{¶4} In this case, the Respondent has proceeded to judgment on the motion. An extraordinary writ will not issue to compel an act already performed. *State ex rel. Jerningham v. Cuyahoga Cty. Court of Common Pleas* (1996), 74 Ohio St.3d 278.

{¶5} As Relator has been granted the relief requested in his petition, it is ordered that this Petition for Writ of Procedendo is dismissed as moot. Costs taxed against Petitioner.

{¶6} Final order. Clerk to serve a copy on counsel or unrepresented party pursuant to the civil rules.

Petition dismissed.

Donofrio, Waite and DeGenaro, JJ., concur.