

[Cite as *State ex rel. Pettway v. Cuyahoga Cty. Court of Common Pleas*, 2012-Ohio-5423.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 98699

**STATE OF OHIO EX REL.,
TIMOTHY PETTWAY**

RELATOR

vs.

**CUYAHOGA COUNTY COURT OF
COMMON PLEAS, ET AL.**

RESPONDENTS

**JUDGMENT:
WRIT DENIED**

Writ of Procedendo
Motion No. 457494
Order No. 460062

RELEASE DATE: November 20, 2012

FOR RELATOR

Timothy Pettway, Pro Se
Inmate No. 550-655
Toledo Correctional Institution
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Toledo, OH 43608

ATTORNEYS FOR RESPONDENTS

Timothy J. McGinty
Cuyahoga County Prosecutor

BY: James E. Moss
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Cleveland, OH 44113

MELODY J. STEWART, P.J.:

{¶1} Timothy Pettway has filed a complaint for a writ of procedendo. Pettway seeks an order from this court, which requires Judge Deena Calabrese and the Cuyahoga County Court of Common Pleas to render a ruling with regard to a motion to “remand sentencing for the limited purpose of allowing defendant to move trial court for a waiver of payment of court costs” as filed in *State v. Pettway*, Cuyahoga C.P. No. CR-498474. Judge Calabrese and the Cuyahoga County Court of Common Pleas have filed a motion for summary judgment, which is granted.

{¶2} Pettway’s request for a writ of procedendo is moot. Attached to the motion for summary judgment is a copy of a judgment entry, as journalized on June 30, 2012, which demonstrates that Pettway’s motion to “remand sentencing for the limited purpose of allowing defendant to move trial court for a waiver of payment of court costs” was denied. Thus, Pettway’s request for a writ of procedendo is moot. *State ex rel. Jerningham v. Cuyahoga Cty. Court of Common Pleas*, 74 Ohio St.3d 278, 1996-Ohio-117, 658 N.E.2d 723; *State ex rel. Snider v. Stapleton*, 65 Ohio St.3d 40, 600 N.E.2d 240 (1992); *State ex rel. Richard v. Wells*, 64 Ohio St.3d 76, 591 N.E.2d 1240 (1992); *State ex rel. Gantt v. Coleman*, 6 Ohio St.3d 5, 450 N.E.2d 1163 (1983).

{¶3} Accordingly, we grant the motion for summary judgment. Respondents to pay costs. Costs ordered waived. The court directs the clerk for the Eighth District Court of Appeals to serve upon the parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

{¶4} Writ denied.

MELODY J. STEWART, PRESIDING JUDGE

FRANK D. CELEBREZZE, JR., J., and
SEAN C. GALLAGHER, J., CONCUR