



Doleh v. Sutula

2012 | Cited 0 times | Ohio Court of Appeals | December 21, 2012

[Cite as Doleh v. Sutula, 2012-Ohio-6143 .]

Court of Appeals of Ohio EIGHTH APPELLATE DISTRICT COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION No. 98971

DOLEH DOLEH RELATOR

vs.

HONORABLE JOHN D. SUTULA RESPONDENT

JUDGMENT: WRIT DENIED

Writ of Mandamus and Procedendo Motion No. 459500 Order No. 460799

RELEASE DATE: December 21, 2012

FOR RELATOR

Doleh Doleh Inmate No. 631-152 Lake Erie Correctional Institution P.O. Box 8000 Conneaut, Ohio 44030

ATTORNEYS FOR RESPONDENT

Timothy J. McGinty Cuyahoga County Prosecutor

By: James E. Moss Assistant County Prosecutor Justice Center - 8th Floor 1200 Ontario Street Cleveland, Ohio 44113

KENNETH A. ROCCO, P.J.:

{¶1} On September 20, 2012, the relator, Doleh Doleh, commenced this mandamus

and/or procedendo action to compel the respondent, Judge John D. Sutula, to rule on the



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postconviction relief petition, which on December 10, 2010, Doleh filed in the underlying

case, State v. Doleh, Cuyahoga C.P. No. CR-531323. On October 18, 2012, the

respondent moved for summary judgment, inter alia, on the grounds of mootness.

Attached to the dispositive motion was a copy of a signed and file-stamped October 17,

2012 journal entry containing the findings of fact and conclusions of law denying Doleh's

petition. Doleh never filed a response to the judge's motion for summary judgment.

Thus, the journal entry establishes that the judge has fulfilled his duty to issue findings of

fact and conclusions of law and rule on the petition. Doleh has received his requested

relief, a resolution of his postconviction relief petition. This matter is moot.

{¶2} Although Doleh filed a poverty affidavit, he did not comply with R.C.

2969.25(C), which requires that an inmate file a certified statement from his prison cashier

setting forth the balance in his private account for each of the preceding six months. This

is sufficient reason to deny the mandamus, deny indigency status, and assess costs against

the relator. State ex rel. Pamer v. Collier, 108 Ohio St.3d 492 , 2006-Ohio-1507 , 844

N.E.2d 842 ; and Hazel v. Knab, 120 Ohio St.2d 22 , 2011-Ohio-4608 , 955 N.E.2d 378 .

{¶3} Accordingly, the court grants the respondent's motion for summary judgment,

and denies Doleh's application for an extraordinary writ. Relator to pay costs. The

court directs the clerk to serve upon the parties notice of this judgment and its date of entry

upon the journal. Civ.R. 58(B).

_____ KENNETH A. ROCCO, PRESIDING JUDGE

KATHLEEN ANN KEOUGH, J., and EILEEN A. GALLAGHER, J., CONCUR

