

**THE STATE EX REL. DAVIE, APPELLANT, v. CALLAHAN, JUDGE, APPELLEE.**

**[Cite as *State ex rel. Davie v. Callahan*, 1998-Ohio-571.]**

*Court of appeals' judgment affirmed.*

(No. 98-558—Submitted July 8, 1998—Decided September 30, 1998.)

APPEAL from the Court of Appeals for Summit County, No. 18907.

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*Michael D. Davie, pro se.*

*Maureen O'Connor*, Summit County Prosecuting Attorney, and *Paul Michael Maric*, Assistant Prosecuting Attorney, for appellee.

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{¶ 1} The judgment of the court of appeals is affirmed; the cause is now moot.

MOYER, C.J., DOUGLAS, RESNICK, F.E. SWEENEY and PFEIFER, JJ., concur.  
COOK and LUNDBERG STRATTON, JJ., dissent.

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**COOK, J., dissenting.**

{¶ 2} Mootness warrants dismissal of the appeal rather than affirmance of the judgment of the court of appeals. See, e.g., *State ex rel. Santora v. Cuyahoga Cty. Bd. of Elections* (1962), 174 Ohio St. 11, 21 O.O.2d 35, 185 N.E.2d 438.

LUNDBERG STRATTON, J., concurs in the foregoing dissenting opinion.

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