

[THE STATE EX REL.] WASHINGTON, APPELLANT, v. CRUSH, JUDGE, APPELLEE.

[Cite as *State ex rel. Washington v. Crush*,
106 Ohio St.3d 60, 2005-Ohio-3675.]

Mandamus — Reconsideration motion under App.R. 26(A) is a nullity when petition filed originally in court of appeals.

(No. 2005-0125 — Submitted June 15, 2005 — Decided August 3, 2005.)

APPEAL from the Court of Appeals for Hamilton County, No. C-040670.

Per Curiam.

{¶ 1} In November 1991, appellant, William Washington Jr., filed a petition in the Hamilton County Court of Common Pleas. He requested a writ of habeas corpus to compel his immediate release from the county jail. In August 2004, Washington moved for summary judgment on his petition.

{¶ 2} In October 2004, Washington filed a petition in the Court of Appeals for Hamilton County for a writ of mandamus to compel appellee, Judge Thomas A. Crush of the common pleas court, to rule upon his pending habeas corpus petition. Judge Crush moved to dismiss the mandamus petition. On November 4, 2004, the court of appeals granted Judge Crush's motion and dismissed the petition.

{¶ 3} On November 17, 2004, Washington moved for reconsideration of the court of appeals' dismissal of his mandamus petition. Washington claimed that his motion was brought under App.R. 26(A). On December 9, 2004, the court of appeals denied Washington's motion for reconsideration.

{¶ 4} This cause is now before the court upon Washington's appeal from the December 9, 2004 judgment.

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{¶ 5} We affirm the judgment of the court of appeals. Washington’s reconsideration motion was a nullity because his mandamus action was filed originally in the court of appeals, rendering App.R. 26(A) inapplicable. *State ex rel. Burnes v. Athens Cty. Clerk of Courts* (1998), 83 Ohio St.3d 523, 524, 700 N.E.2d 1260; *State ex rel. Clark v. Lile* (1997), 80 Ohio St.3d 220, 221, 685 N.E.2d 535. Even though the court of appeals did not specify this as its basis for denying Washington’s reconsideration motion, “ ‘we will not reverse a correct judgment based on an appellate court’s erroneous rationale.’ ” *Phillips v. Irwin*, 96 Ohio St.3d 350, 2002-Ohio-4758, 774 N.E.2d 1218, ¶ 5, quoting *Johnson v. Timmerman-Cooper* (2001), 93 Ohio St.3d 614, 616, 757 N.E.2d 1153.

Judgment affirmed.

MOYER, C.J., RESNICK, PFEIFER, LUNDBERG STRATTON, O’CONNOR, O’DONNELL and LANZINGER, JJ., concur.

William Washington Jr., pro se.
