

[Cite as *State ex rel. McCuller v. Keenon*, 2004-Ohio-371.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 83838

STATE OF OHIO, EX REL.	:	PETITION FOR WRIT
CHARLES D. MCCULLER	:	PROCEDENDO
	:	
PETITIONER	:	
	:	
-vs-	:	<i>JOURNAL ENTRY AND OPINION</i>
	:	
JUDGE UNA H.R. KEENON	:	
	:	
RESPONDENT	:	

DATE OF JOURNALIZATION: JANUARY 23, 2004

JUDGMENT: WRIT GRANTED.

APPEARANCES:

FOR RELATOR:

CHARLES D. MCCULLER, PRO SE  
No. 169-288  
2500 S. Avon Belden Road

FOR RESPONDENT:

FERNANDO MACK, ESQ.  
Chief Prosecutor  
City of East Cleveland

Grafton, Ohio 44044

14340 Euclid Avenue  
Euclid, Ohio 44112

DYKE, J.

{¶1} Relator Charles D. McCuller seeks a writ of procedendo in order to compel the respondent, Judge Una H.R. Keenon, to rule on his Civil Rule 60(B) motion, filed on August 7, 2002, in the underlying cases of *East Cleveland v. McCuller*, East Cleveland Municipal Court, case Nos. 01CRB01028-1-2 and 01CRB01028-2-2. The respondent has not filed an answer or dispositive motion. For the following reason, McCuller's request for a writ of procedendo is granted.

{¶2} A petition for a writ of procedendo is appropriate when a court has either refused to render a judgment or has unnecessarily delayed proceeding to judgment. *State ex rel. Miley v. Parrot* (1996), 77 Ohio St.3d 64, 671 N.E.2d 24. "An inferior court's refusal to timely dispose of a pending action is the ill a writ of procedendo is designed to remedy." *State ex rel. Dehler v. Sutula* (1995), 74 Ohio St.3d 33, 656 N.E.2d 332 quoting *State ex rel. Levin v. Sheffield Lake* (1994), 70 Ohio St.3d 104, 637 N.E.2d 319.

{¶3} A review of the record indicates that Judge Keenon has not ruled on McCuller's Civ.R. 60(B)(5) motion as filed on August 7, 2002. Because this motion has been pending for over seventeen months, we hold that McCuller's request for relief in procedendo is well taken. The respondent is hereby directed to rule on the pending motion within thirty (30) days from the date of this entry.

Respondent to pay costs. The clerk is directed to serve upon the parties notice of this judgment and its date of entry upon the journal. Civ.R. 58(B).

{¶4} Writ granted.

PATRICIA ANN BLACKMON, P.J., and TIMOTHY E. MCMONAGLE J.,  
concur.

JUDGE  
ANN DYKE