

[Cite as *State ex rel. McCuller v. Corrigan*, 2007-Ohio-1975.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
**No. 89582**

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**STATE OF OHIO, EX REL.,  
CHARLES MCCULLER**

RELATOR

VS.

**PETER CORRIGAN, JUDGE**

RESPONDENT

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**JUDGMENT:  
WRIT DISMISSED**

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WRIT OF MANDAMUS  
MOTION NO. 395439  
ORDER NO. 395620

**RELEASE DATE:** April 24, 2007

**FOR RELATOR:**

Charles McCuller, pro se  
Inmate No. 482-821  
Mansfield Correctional Inst.  
P.O. Box 788  
Mansfield, Ohio 44901

**ATTORNEY FOR RESPONDENT:**

William D. Mason  
Cuyahoga County Prosecutor  
By: Mary McGrath  
Assistant County Prosecutor  
8th Floor Justice Center  
1200 Ontario Street  
Cleveland, Ohio 44113

[Cite as *State ex rel. McCuller v. Corrigan*, 2007-Ohio-1975.]  
KENNETH A. ROCCO, J.:

{¶ 1} On March 19, 2007, relator Charles McCuller commenced this mandamus action against respondent Judge Peter Corrigan to compel him to issue findings of fact and conclusions of law pertaining to McCuller's post-conviction relief petition which was filed on October 3, 2005 in the underlying matter of *State v. McCuller*, Cuyahoga County Court of Common Pleas, Case No. CR-455941. On April 4, 2007, Judge Corrigan filed a motion to dismiss relator's original action in mandamus. For the following reason, we grant the motion to dismiss.

{¶ 2} Attached to Judge Corrigan's motion to dismiss is a copy of the findings of fact and conclusions of law which was journalized on April 10, 2007. Thus, McCuller's request for a writ of mandamus is moot. *State ex rel. Gantt v. Coleman* (1983), 6 Ohio St.3d 5, 450 N.E.2d 1163; *State ex rel. Jerningham v. Cuyahoga County Court of Common Pleas*, 74 Ohio St.3d 278, 1996-Ohio-117, 658 N.E.2d 723.

{¶ 3} Accordingly, we dismiss McCuller's petition for a writ of mandamus.<sup>1</sup> Costs to respondent. It is further ordered that the clerk shall serve upon all parties notice of this judgment and date of entry pursuant to Civ.R. 58(B).

Petition dismissed.

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<sup>1</sup> Dismissal is appropriate in this case despite the fact that the motion to dismiss presents matters outside the pleading. Civ.R. 12(B) and 56. A court may take judicial notice of mootness. "In fact, 'an event that causes a case to be moot may be proved by extrinsic evidence outside the record.' *Pewitt v. Lorain Correctional Inst.* 64 Ohio St.3d 470, 472, 1992-Ohio-91, 597 N.E.2d 92." *State ex rel. Nelson v. Russo*, 89 Ohio St.3d

KENNETH A. ROCCO, JUDGE

JAMES J. SWEENEY, P.J., and  
MARY EILEEN KILBANE, J., CONCUR