

[Cite as *State ex rel. McCuller v. Calabrese*, 2013-Ohio-590.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
No. 98828

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**STATE OF OHIO EX REL,  
CHARLES D. McCULLER**

RELATOR

vs.

**JUDGE DEENA R. CALABRESE**

RESPONDENT

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**JUDGMENT:  
WRIT DENIED**

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Writ of Procedendo  
Motion No. 458559  
Order No. 462221

**RELEASED DATE:** February 15, 2013

**FOR RELATOR**

Charles D. McCuller, Pro Se  
Inmate #482-821  
Grafton Correctional Inst.  
2500 S. Avon Beldon Road  
Grafton, Ohio 44044

**FOR RESPONDENTS**

Timothy J. McGinty  
Cuyahoga County Prosecutor

By: James E. Moss  
Assistant county Prosecutor  
9<sup>th</sup> Floor, Justice Center  
1200 Ontario Street  
Cleveland, Ohio 44113

PATRICIA ANN BLACKMON, J.:

{¶1} Charles D. McCuller, the relator, has filed a complaint for a writ of procedendo. McCuller seeks an order from this court which requires Judge Deena R. Calabrese, the respondent, to render rulings with regard to three “motion[s] to vacate void sentence” that are pending in *State v. McCuller*, Cuyahoga C.P. Case Nos. CR-79-48254, CR-79-48919, and CR-79-52011. McCuller’s request for a writ of procedendo is moot.

{¶2} Attached to Judge Calabrese’s motion for summary judgment are three judgment entries, each journalized on September 11, 2012, that demonstrate rulings have been rendered with regard to each pending motion to vacate void sentence. Thus, Judge Calabrese has proceeded to judgment and McCuller’s request for a writ of procedendo is moot. *State ex rel. Fontanella v. Kantos*, 117 Ohio St.3d 514, 2008-Ohio-1431, 885 N.E.2d 220; *State ex rel. Howard v. Doneghy*, 102 Ohio St.3d 355, 2004-Ohio-3207, 810 N.E.2d 958, ¶ 6, quoting *State ex rel. Kreps v. Christiansen* (2000), 88 Ohio St.3d 313, 318, 725 N.E.2d 663.

{¶3} Accordingly, we grant Judge Calabrese’s motion for summary judgment. McCuller to pay costs. Cost ordered waived. The court directs the clerk of court to serve all parties with notice of this judgment and its date of entry upon the journal as required by Civ.R. 58(B).

{¶4} Writ denied.

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PATRICIA ANN BLACKMON, PRESIDING JUDGE

MELODY J. STEWART, A.J., and  
EILEEN A. GALLAGHER, J., CONCUR