

**COURT OF APPEALS OF OHIO**

**EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA**

STATE OF OHIO EX REL. ANDREW :  
FORSTON, :  
 :  
 Relator, :  
 : No. 112977  
 v. :  
 :  
 JUDGE KATHLEEN SUTULA, :  
 :  
 Respondent. :

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JOURNAL ENTRY AND OPINION

**JUDGMENT: COMPLAINT DISMISSED**  
**DATED: September 13, 2023**

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Writs of Mandamus and Procedendo  
Motion No. 566709  
Order No. 567653

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***Appearances:***

Andrew Fortson, *pro se*.

Michael C. O'Malley, Cuyahoga County Prosecuting  
Attorney, and Jake A. Elliott, Assistant Prosecuting  
Attorney, *for respondent*.

SEAN C. GALLAGHER, J.:

{¶ 1} On July 17, 2023, the relator, Andrew Fortson, commenced this mandamus and procedendo action against the respondent, Judge Kathleen Sutula, to compel the judge to rule on his petition for DNA testing, which he filed on

October 20, 2022, in the underlying case, *State v. Fortson*, Cuyahoga C.P. No. CR-99-385443-A. On August 7, 2023, the respondent judge moved to dismiss this writ action as moot. Attached to the motion is a certified copy of a journal entry, file-stamped August 1, 2023, in the underlying case in which the judge denied the petition for DNA testing. Fortson did not file a timely response. The August 1, 2023 journal entry establishes that Fortson has received his requested relief, a ruling on the petition, and that the judge has fulfilled her duty by proceeding to judgment on the subject motion.

{¶ 2} Accordingly, this court grants the motion to dismiss and dismisses this mandamus and procedendo action as moot. Respondent to pay costs; costs waived. This court directs the clerk of courts to serve all parties notice of the judgment and its date of entry upon the journal as required by Civ.R. 58(B).

{¶ 3} Writ dismissed.

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SEAN C. GALLAGHER, JUDGE

ANITA LASTER MAYS, A.J., and  
LISA B. FORBES, J., CONCUR