

ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO EX. REL  
MARCUS HAYES  
FRANKLIN MEDICAL CENTER  
1800 HARMON AVE  
COLUMBUS, OHIO 43223

: SUP CT NO; 11-1381  
: ON APPEAL FROM THE HAMILTON,  
: COUNTY COURT OF APPEAL, FIRST  
: APPELLATE DISTRICT

APPELLANT

VS

RALPH WINKLER, JUDGE  
HAMILTON COUNTY COURT COMMON PLEAS  
1000 MAIN ST  
CINCINNATI, OHIO 45202  
APPELLEES

:  
: IN ACCOUDANCE TO S.CT PRAC R. 11.2(4)  
: MOTION FOR RECONSIDERATION  
: APPEAL CASE NO. C-1100365  
: TRIAL NO. B-0103412

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MOTION FOR RECONSIDERATION

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Marcus Hayes #566-805  
Franklin Medical Center  
1800 Harmon ave  
Columbus, Ohio 43223  
Appellant, Pro se

Joesph T. Deters  
230 E. Ninth Street, Suite 4000  
Cincinnati, Ohio 45202  
Counsel for Appellees Ralph Winker, Judge

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APPELLANT

VS

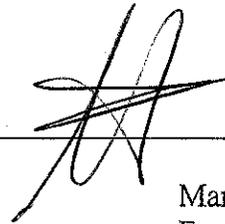
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Now comes the Appellant, Marcus Hayes, proceeding Pro se and respectfully moves the court to reconsider its decision journalized December 1, 2011, received by Appellant December 7, 2011 wherein the Court denied Appellant's Merit Brief, appealing The Hamilton County Court of Appeal's ruling dismissing The Mandamus as "Moot", for reason more fully set forth in the Memorandum in Support hereto.

Date December 7, 2011



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Marcus Hayes #566-805  
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Columbus, Ohio 43223  
Appellant, Pro se

## MEMORANDUM IN SUPPORT OF MOTION FOR RECONSIDERATION

- 1) The Court herein affirmed the Court of Appeals judgment and said it was consistent with the opinion rendered herein. Court of Appeals rendered “NO” opinion in this matter.
- 2) **S. Ct Prac R. 6.7(B)** states: (B) If the appellee fails to file a merit brief within the time provided by **S.Ct. Prac. R. 6.3** or as extended in accordance with **S.Ct. Prac. R. 14.3**, the Supreme Court may accept the appellant's statement of facts and issues as correct and reverse the judgment if appellant's brief reasonably appears to sustain reversal.
- 3) Appellee failed to file a merit brief in this matter or failed to serve upon Appellant a copy of it's Merit Brief.
- 4) The Ohio Supreme Court stated in their opinion that the Appellant was asking the court to compel the Trial Judge Ralph Winkler to answer his motion, and that the motion was answered therefor the matter was Moot.
- 5) That was **NOT** the case, the Appellant's Mandamus filed to the Hamilton, County Court of Appeals First District on June 20, 2011 clearly stated as the cause of action that, “ the Honorable Court to comply with the Rules **Civ. R. 58(B)** and **Civ R. 5(B)** set by the State Of Ohio”, by ordering the trial court to order the clerk of court to serve the December 13, 2010 judgment entry and opinion and the date of its journal entry upon the parties (the appellant) in accordance with **Civ. R. 58(B)** and **Civ R. 5(B)** for the purpose of **App.R. 4(A)** to correct the violation of the appellant's right under *The Ohio Constitution Art I § 16, U.S.C.A. Constitution Amend 14*. Without this judgment Appellant can't redress his injuries, and appeal in accordance with **App.R. 4(A)**.
- 6) The Court of Appeals erred procedurally and constitutionally in issuing a “blanket” declaration of mootness without specifically designating what created said mootness.
- 7) If a Pro se Litigant do not receive notice of a courts decision from the court itself how may the Pro se Litigant file an appeal to redress his injuries?

- 8) Appellant asserts that this Honorable Court is simply ignoring the **Proposition of Law No. 1** [F]or due process purpose Pro se Litigants are entitled to reasonable notice of the trial courts' appealable orders pursuant to **Civil R. 58(B)**, where court rules require and states: **Civ. R. 58(B)** "*When the court signs a judgment, the court shall endorse thereon a direction to the clerk to serve upon all parties not in default for failure to appear notice of the judgment and its date of entry upon the journal. Within three days of entering the judgment upon the journal, the clerk shall serve the parties in a manner prescribed by Civ. R. 58(B) and note the service in the appearance docket. Upon serving the notice and notation of the service in the appearance docket, the service is complete. The failure of the clerk to serve notice does not affect the validity of the judgment or the running of the time for appeal except as provided in App R. 4(A)*". Even if it's a Pro se Litigant as in this case.
- 9) Appellant asserts that The Honorable Court to kindly take a closer and second look and then agree to hear this case on the merits.
- 10) Without this reconsideration this Honorable court is making "Bad" law for other courts to follow and violate Pro se Litigant right under *The Ohio Constitution Art I § 16, U.S.C.A. Constitution Amend 14<sup>th</sup>*.

Date December 7, 2011

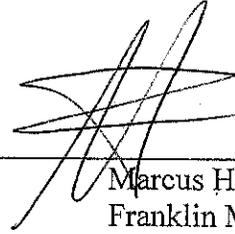


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Appellant, Pro se

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the forgoing petition was sent by regular U.S. Mail to the Hamilton County Prosecutors Office at: 230E. Ninth Street 4000 Cincinnati, Ohio 45202



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