

STATE OF OHIO, COLUMBIANA COUNTY

IN THE COURT OF APPEALS

SEVENTH DISTRICT

STATE OF OHIO,)	
)	CASE NO. 99-CO-75
PLAINTIFF-APPELLEE,)	
)	<u>OPINION</u>
VS.)	<u>AND</u>
)	<u>JOURNAL ENTRY</u>
COREY M. MCKINNON,)	
)	
DEFENDANT-APPELLANT.)	

CHARACTER OF PROCEEDINGS:	Petition for post-conviction relief
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JUDGMENT:	Dismissed
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APPEARANCES:

For Plaintiff-Appellee:	Robert L. Herron Prosecuting Attorney Timothy J. McNicol Assistant Prosecuting Attorney 105 South Market Street Lisbon, Ohio 44432
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For Defendant-Appellant:	Atty. Melody Calhoun 124-D West Lincoln P.O. Box 365 Lisbon, Ohio 44432
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JUDGES:

Hon. Gene Donofrio
Hon. Joseph J. Vukovich
Hon. Cheryl L. Waite

Dated: March 15, 2001

PER CURIAM.

Defendant-appellant, Corey M. McKinnon, appeals a decision of the Columbiana County Common Pleas Court denying his petition for post-conviction relief.

On December 15, 1998, appellant was convicted of rape in violation of R.C. 2907.02(A)(2). On January 22, 1999, appellant filed a motion for new trial alleging prosecutorial misconduct. Specifically, appellant alleged that the prosecution had failed in its duty to disclose evidence which was favorable to him. The trial court overruled the motion.

Appellant assigned this as error in his direct appeal before this court under Case Number 99-CO-11. On January 29, 2001, this court found merit to appellant's argument and reversed the trial court's decision, vacated appellant's conviction, and remanded the case for a new trial. Accordingly, the appeal from the denial of his petition for post-conviction relief is moot.

This appeal is hereby dismissed, as moot.

Donofrio, J., concurs

Vukovich, J., concurs

Waite, J., concurs