

[Cite as *State ex rel. Fuller v. Sutula*, 2012-Ohio-4827.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
No. 98375

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**STATE OF OHIO, EX REL.  
MICHAEL FULLER**

RELATOR

vs.

**JUDGE KATHLEEN ANN SUTULA**

RESPONDENT

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**JUDGMENT:  
WRIT DENIED**

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Writ of Mandamus  
Motion No. 456147  
Order No. 459273

**RELEASE DATE:** October 17, 2012

**FOR RELATOR**

Michael Fuller, pro se  
Inmate No. 257-390  
Grafton Correctional Institution  
2500 South Avon Belden Road  
Grafton, OH 44044

**ATTORNEYS FOR RESPONDENT**

Timothy J. McGinty  
Cuyahoga County Prosecutor

BY: Charles E. Hannan  
Assistant Prosecuting Attorney  
The Justice Center, 8th Floor  
1200 Ontario Street  
Cleveland, OH 44113

SEAN C. GALLAGHER, J.:

{¶1} Relator, Michael Fuller, is the plaintiff in *Fuller v. Ohio Dept. of Rehab. & Corr.*, Cuyahoga C.P. No. CV-768245, a declaratory judgment action. Fuller appealed the February 16, 2012 judgment of the court of common pleas to this court, and we dismissed that appeal for lack of a final appealable order because the trial court did not state the basis for its decision and declare the rights of the parties. *Fuller v. Ohio Dept. of Rehab. & Corr.*, 8th Dist. No. 98062 (May 2, 2012).

{¶2} In this action, Fuller requests that this court compel respondent judge to issue a final appealable order. For the reasons stated below, we deny Fuller's request for relief in mandamus.

{¶3} The docket in Case No. CV-768245 reflects that respondent entered judgment on May 16, 2012. Fuller's appeal of that judgment is now pending before this court as *Fuller v. Mohr*, 8th Dist. No. 98477. He filed this action on May 18, 2012.

{¶4} Respondent has filed a motion for summary judgment attached to which is a copy of the May 16, 2012 entry of respondent. Fuller has not opposed the motion. Respondent contends that she has already acted and cannot be compelled to perform a duty that she has already fulfilled. We agree.

{¶5} Accordingly, respondent's motion for summary judgment is granted. Fuller to pay costs. This court directs the clerk of court to serve all parties notice of this judgment and its date of entry upon the journal as required by Civ.R. 58(B).

Writ denied.

SEAN C. GALLAGHER, JUDGE

PATRICIA ANN BLACKMON, A.J., and  
MARY J. BOYLE, J., CONCUR