

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

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 98375

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

RELATOR

vs.

JUDGE KATHLEEN ANN SUTULA

RESPONDENT

**JUDGMENT:
WRIT DENIED**

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